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ABSTRACT

This state plan discusses programs and policies to be implemented from fiscal years 1993 through 1995 by the North Dakota Department of Public Instruction in implementing Part B of the Individuals with Disabilities Education Act. The plan document begins with federally required submissions, assurances, certifications, and other administrative materials. The plan then presents information on: right to education policy, the State's full educational opportunity goal, child identification procedures, Individualized Education Programs, procedural safeguards, confidentiality, least restrictive environment, protection in evaluation procedures, responsibility of State educational agency, comprehensive system of personnel development, private schools, recovery of funds, notice and opportunity for hearing on special education unit application, annual evaluation, description of use of Part B funds, interagency agreements, personnel standards, and new State plan requirements. Appendices include definitions of disabilities, North Dakota special education laws, Individualized Education Program guidelines, monitoring procedures, parent rights and parent consent procedures, procedural safeguards, interagency agreements, and credential requirements. (JDD)

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North Dakota State Plan

Fiscal Year 1993—Fiscal Year 1995

Under Part B of the Individuals With Disabilities Education Act

EC 303122

The State of North Dakota Department of Public Instruction
Dr. Wayne G. Sanstead, Superintendent
Bismarck, North Dakota 58505
April 1992

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It is the policy of the Department of Public Instruction that no person, shall, on the basis of race, sex, color, national origin, religion, age, or handicapping condition, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Equal education opportunity is a priority of the North Dakota Department of Public Instruction.

STATE PLAN
FISCAL YEAR 1993 - FISCAL YEAR 1995

UNDER PART B OF THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Submitted by:

Gary W. Gronberg, Ed.D.
Director of Special Education

DEPARTMENT OF PUBLIC INSTRUCTION
Dr. Wayne G. Sanstead, SUPERINTENDENT
Bismarck, ND 58505-0440

April, 1992

NORTH DAKOTA STATE PLAN
FISCAL YEARS 1993-1995

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I. CREDENTIAL REQUIREMENTS

PART I

SUBMISSION STATEMENT, CERTIFICATIONS, AND ASSURANCES

A. SUBMISSION STATEMENT

I, the undersigned authorized official of the State Educational Agency of ND Department of Public Instruction, hereby submit the following State Plan for Fiscal Years 1993-95 under Part B of the Individuals with Disabilities Education Act.

Wayne G. Sanstead
Signature of Authorized Official

03/03/92
Date

Wayne G. Sanstead, Superintendent
Type Name and Title

B. ASSURANCE STATEMENTS

The State of NORTH DAKOTA makes the following assurances and provisions as required by Part B of the Individuals with Disabilities Act, as amended (20 U.S.C. 1411-1420):

I. In carrying out the requirements of 20 U.S.C. 1412, procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities (20 U.S.C. 1412(7)(A)).

II. Programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including subpart 2 of part D of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 and section 202(1) of the Carl D. Perkins Vocational Education Act, under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs (20 U.S.C. 1413(a)(2)).

III. Federal funds made available under the Act: (A) will not be commingled with State funds; and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the control of State or local educational agencies) expended for special education and related services provided to children with disabilities and will in no case be used to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate education, the Secretary may waive in part the requirement of this clause if the Secretary concurs with evidence provided by the State (20 U.S.C. 1413(a)(9)(B) and 20 U.S.C. 1414 (a)(2)(B)(ii)).

IV. The State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in, or

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concerned with, the education of children with disabilities, including handicapped individuals, teachers, parents or guardians of children with disabilities, State and local officials, which: (A) advises the State educational agency of unmet needs within the State in the education of children with disabilities; (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities, and the procedures for distribution of funds under the Act; and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under 20 U.S.C. 1418 (20 U.S.C. 1413(a)(12)).

V. The Education of the Handicapped Act, as amended, will not be construed by the State to permit the State to reduce medical or other assistance available under, or to alter the aligibility requirements of, programs funded in whole or in part through Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, with respect to the provision of a free appropriate public education for children with disabilities within the State.

E. **EXECUTIVE ORDER 12372**

This State certifies that:

To the best of our knowledge and belief, data in this State Plan are true and correct, the document has been duly authorized by the governing body of the State education agency and the State will comply with the attached assurances if the State Plan is approved.

The State Plan was submitted to the State's "single point of contact" under Executive Order 12372 on date: March 23, 1992

F. **PUBLIC PARTICIPATION (34 CFR 300.280-300.284 and 34 CFR 76.101 of the EDGAR)**

Documentation that public hearings have been held and that the Plan has been made available as required should be included in this section. (See cover memorandum for further details.)

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THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

March 12, 1992

Laurie Graveline
North Dakota Newspaper Association
222 North 4th Street
Bismarck, ND 58501

Dear Madam or Sir:

Enclosed is an official legal notice which is self-explanatory. The notice needs to be printed once as soon as possible in each of the North Dakota Official County Newspapers. It must appear prior to March 23, 1992 in each of the papers.

Billing for publication of this notice should be sent along with the Affidavit of Publication to:

Department of Public Instruction
Special Education
600 East Boulevard Avenue
11th Floor, State Capitol
Bismarck, ND 58505-0440

Thank you.

Sincerely,

Gary W. Gronberg, Ed.D.
Director of Special Education

GWG/lda
Enclosure

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NOTICE OF PUBLIC HEARING

In accordance with federal regulations, North Dakota Superintendent of Public Instruction, Dr. Wayne G. Sanstead, has announced that the Department of Public Instruction is hosting public hearings to review a draft of the State Plan for Fiscal Years 1993-95, Part B, Individuals with Disabilities Education Act and the Preschool Grant Application Package. These meetings will be held in: Dickinson, Monday, April 13, 1992, in the Board Room, Dickinson Public Schools, Administration Building, 444 4th St. West, 10:00 a.m. to 12:00 noon (MST); Bismarck, Tuesday, April 14, 1992, in Lecture Room A at the Heritage Center, Capitol Grounds, 10:00 a.m. to 12:00 noon; and Valley City, Thursday, April 16, 1992, in the Skoal Room of the Student Center, Valley City State University, 10:00 a.m. to 12:00 noon.

Public Law 94-142, the Education for All Handicapped Children Act of 1975, has been recently amended to P.L. 101-476, Individuals with Disabilities Education Act. The purpose of the Act and State Plan is to assure that all children with disabilities and their parents are protected, to assist states in providing for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.

The IDEA amendments of 1991 (P.L. 102-119), enacted on October 7, 1991, amended and reauthorized Part H of the IDEA (the Infants and Toddlers with Disabilities program). It also amends other parts of IDEA, including Part B.

At public meetings, the Department of Public Instruction will receive comments on specific areas of concern as they relate to the draft of the State Plan and the Preschool Grant Application. A copy of the draft plan and grant are available for review and/or checkout in the office of each County Superintendent of Schools prior to the public meeting. Any person interested in reviewing the federal regulations or the current State Plan should contact the Division of Special Education, Department of Public Instruction, 600 East Boulevard Avenue, 10th Floor, State Capitol, Bismarck, ND 58505-0440 (phone 224-2277). Verbal or written comments regard the State Plan and Preschool Grant will be received by the Department of Public Instruction through April 22, 1992.

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

DATE: March 16, 1992

MEMO TO: County Superintendents of Schools

FROM: Gary W. Gronberg, Ed.D.
Director of Special Education

SUBJECT: Distribution of the Draft of the North Dakota State Plan for Fiscal Years 1993-95, Part B, Individuals with Disabilities Education Act, and Preschool Grant Application Package

As in the past, we are again requesting that your office serve as a focal point for public access to the proposed plan for special education under Part B during its 30-day public review period.

The enclosed draft of the Fiscal Years 1993-95 State Plan for Special Education in North Dakota and the Preschool Grant Application Package are provided to your office for checkout and review by any interested party from March 23, 1992 through April 22, 1992. Three statewide public meetings to receive public comment are scheduled as follows:

Dickinson, Monday, April 13, 1992, in the Board Room, Dickinson Public Schools, Administration Building, 444 4th St. West, 10:00 a.m. to 12:00 noon (MST).

Bismarck, Tuesday, April 14, 1992, in Lecture Room A at the Heritage Center, Capitol Grounds, 10:00 a.m. to 12:00 noon.

Valley City, Thursday, April 16, 1992, in the Skoal Room of the Student Center, Valley City State University, 10:00 a.m. to 12:00 noon.

At the public meetings, the Department of Public Instruction will receive suggestions on specific areas of concern as they relate to the North Dakota State Plan and Preschool Grant Application Package.

Written comments regarding the plan and/or grant application may be sent to:

Gary W. Gronberg, Ed.D.
Director of Special Education
Department of Public Instruction
600 East Boulevard Avenue
10th Floor, State Capitol
Bismarck, ND 58505-0440

Comments regarding the plan and/or grant application will be accepted through Wednesday, April 22, 1992.

GWG/lda
Enclosures

CC: Directors of Special Education

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

DATE: March 16, 1992

MEMO TO: Other Agencies and Interested Organizations and Persons

FROM: Gary W. Gronberg, Ed.D.
Director of Special Education

SUBJECT: Draft of the State Plan for Fiscal Years 1993-95, Part B, Individuals with Disabilities Education Act, and the Preschool Grant Application Package

Enclosed is a draft of the proposed plan for special education under Part B and the Preschool Grant application package. The plan and grant application are submitted to you for review from March 23, 1992 through April 22, 1992 - the 30-day review period.

Three statewide public meetings to receive public comment are scheduled as follows:

Dickinson, Monday, April 13, 1992, in the Board Room, Dickinson Public Schools, Administration Building, 444 4th St. West, 10:00 a.m. to 12:00 noon (MST).

Bismarck, Tuesday, April 14, 1992, in Lecture Room A at the Heritage Center, Capitol Grounds, 10:00 a.m. to 12:00 noon.

Valley City, Thursday, April 16, 1992, in the Skoal Room of the Student Center, Valley City State University, 10:00 a.m. to 12:00 noon.

At the public meetings, the Department of Public Instruction will receive suggestions on specific areas of concern as they relate to the North Dakota State Plan and Preschool Grant Application Package.

Written comments regarding the plan and/or grant application will be accepted through April 22, 1992, and may be sent to:

Gary W. Gronberg, Ed.D.
Director of Special Education
Department of Public Instruction
600 East Boulevard Avenue
10th Floor, State Capitol
Bismarck, ND 58505-0440

GWG/lda
Enclosures

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

March 19, 1992

TO: IDEA Advisory Committee Members

FROM: Gary Holm, Federal Programs Director

RE: Meeting scheduled for April 14, 1992

A meeting of the Individuals with Disabilities Education Act (IDEA) Advisory Committee has been scheduled for Tuesday, April 14, 1992 at the **North Dakota Heritage Center** in Lecture Room A. (The Heritage Center is located on the State Capitol Ground next to the State Library and across the street from the Visitors Parking Lot). The meeting will **begin at 10 a.m.** and conclude at about 4 p.m. The public meeting for the 1993-95 State Plan for Special Education and Preschool Grant Application will be held between 10 a.m. and 12 noon. These documents are enclosed for your review prior to our meeting.

As in the past, mileage and meal expenses will be reimbursed at state rates (20 cents per mile and up to $17/day for meals). For those of you who will be driving to Bismarck the evening before the meeting, lodging expenses will be reimbursed at the state rate of up to $35/night. The hotel nearest to the Capitol is the Kelly Inn (223-8001 or 1-800-635-3559). Please request the state room rate of $32/single room.

If you have questions about the meeting arrangements or the agenda, please feel free to call me at 224-4564.

F. PUBLIC PARTICIPATION

Draft copies of the state plan for fiscal years 1993-95, Part B of the Individuals with Disabilities Education Act, were distributed to the offices of the county superintendents, special education directors, members of the IDEA Advisory Panel, and to selected state agencies and potentially interested organizations. Communications accompanying each copy listed the date, time, and place of three public hearings.

Notice of the draft state plan review and hearing schedule was published in each of the official county newspapers notifying any interested parties that the draft plan was available for review, the location of the review copies, and the public hearings schedule.

Public Comments

1. A commenter requested an explanation of states regarding inclusion of developmental delay as a categorical area under which children ages 3-5 may receive special education and related services.

   Response: The assurance statement is a state option. North Dakota elected not to define and use developmental delay as a category.

2. A commenter asked for clarification relating to cost of copies of student records.

   Response: A fee may not be charged to the parent by the school to search for and locate the child's records. A fee may be charged for actual copies made, unless that fee prevented the parents from obtaining copies; i.e., they could not pay the cost of copies.

3. A commenter asked for clarifications regarding qualifications of persons conducting independent educational evaluations, particularly with regarding to graduate students.

   Response: Evaluations performed by persons with less than the full qualifications who are under the supervision of a qualified examiner are acceptable because the supervisor's credential would be considered as the pertinent credential in judging qualifications.

4. A commenter noted Section 15 of North Dakota Century Code 15-59-10, indicating a desire for wording beginning "However, ... to be dropped.

   Response: The Department of Public Instruction will address legislative changes in this statute in the upcoming Legislative session (1993).

5. A commenter asked about training for surrogate parents, and unit assurances regarding such training.

   Response: Special education unit procedures state situations under which surrogate parents need to be selected and describe the nature of training provided by the unit. The unit can conduct training using unit personnel or can contract for the training, as they choose. The Department of Public Instruction monitors the procedures and implementation.

6. A commenter noted that Least Restrictive Environment, section C, Procedures, "directs IEP teams to <u>discuss</u>" ... which may result in

considerations not being listed or shown in the IEPS. Justification of service options would then not be evidence, which would not be in line with recommended IEP forms and content.

Response: The justification section on the IEP form requires documentation of the discussion. This need has been addressed in statewide IEP training. The Department of Public Instruction, through regular monitoring, determines that discussions have been documented.

7. A commenter asked whether inclusion of training regarding ADA under transition training in the Personnel Development section of the plan would be appropriate, even though it is a Vocational Rehabilitation responsibility.

Response: The State Transition Planning Council will consider this as it develops the strategic plan for transition.

OIA

OFFICE OF INTERGOVERNMENTAL ASSISTANCE

A Division of the Office of Management and Budget
14th Floor - State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0170
Telephone (701) 224-2094
FAX (701) 224-2308
TDD (701) 224-2404

May 1, 1992

Gary Gronberg, Ed.D
ND Dept. of Public Instruction
State Capitol
600 E Boulevard Ave.
Bismarck, ND 58505-0440

"Letter of Clearance" In Conformance with the North Dakota Federal Program Review System - State Application Identifier No.: ND920429-0191

Dear Dr. Gronberg:

SUBJECT: State Plan for FY 93-95 under Part B of the Individuals with Disabilities Education Act

The above referenced plan has been reviewed through the North Dakota Federal Program Review Process and based on the results of the review, clearance is given to the project as described.

If the proposed project changes in duration, scope, description, budget, location or area of impact, from the project description submitted for review, then it is necessary to submit a copy of the completed application to this office for further review.

We also request the opportunity for complete review of applications for renewal or continuation grants or applications not submitted to or acted on by the funding agency within one year after the date of this letter.

Please use the above SAI number for reference to the above project with this office. Your continued cooperation in the review process is much appreciated.

Sincerely,

James R. Boyd
Manager of Governmental Services
Office of Intergovernmental
Assistance

sp

18

NEW STATE PLAN REQUIREMENTS UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS ADDED BY THE EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990 (PUB. L. 101-476) AND THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1991 (Pub. L. 102-119)

Assurances Regarding Implementation of These Requirements During Fiscal Year 1993

For purposes of implementing provisions of the Education of the Handicapped Act Amendments of 1990 (Pub. L. 101-476) and the Individuals with Disabilities Education Act Amendments of 1991 (Pub. L. 102-119), which amend Part B of the Individuals with Disabilities Education Act (Act) (20 U.S.C. 1401, 1411-1420), the State of NORTH DAKOTA makes the following assurances:

(1) In accordance with section 612(2) of the Act, throughout the period of the Fiscal Year (FY) 1993 grant award, the State's definition of "children with disabilities," or its equivalent, will include "children with autism" and "children with traumatic brain injury" as separate disability categories under Part B, as specified in section 602(a)(1) of the Act. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

> [If your State elects to include in its definition of "children with disabilities" for children aged three through five, "children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures. . .," leave in the following paragraph, if not, cross out.]

(2) In accordance with section 612(2) of the Act, throughout the period of the FY 1993 grant award, the State's definition of "children with disabilities," or its equivalent, for children aged three through five will include "children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures. . .," in accordance with the criteria specified in section 602(a)(1)(B) of the Act.

(3) In accordance with section 612(2) of the Act, throughout the period of the FY 1993 grant award, the State's definition of "special education," or its equivalent, will add "instruction in other settings" to the list of settings in which "specially designed instruction" may be provided to children with disabilities, as required by section 602(a)(16) of the Act. As soon as possible, but no later than July 1, 1993, the State will

make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(4) In accordance with section 612(2) of the Act, throughout the period of the FY 1993 grant award, the State's definition of "related services," or its equivalent, will include "rehabilitation counseling" and "social work services" as eligible related services, as required by section 602(a)(17) of the Act. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(5) In accordance with section 612(4) of the Act, throughout the period of the FY 1993 grant award, each public agency in the State will implement individualized education programs (IEPs) for students with disabilities, as provided in section 614(a)(5) of the Act, which IEPs include the following provisions, as required by section 602(a)(19) and (a)(20) of the Act:

(A) A statement of needed transition services for students with disabilities beginning at age 16 and each year thereafter, and to the extent appropriate, for students with disabilities 14 years of age or younger;

(B) Where appropriate, a statement of interagency responsibility if a State or local agency, other than the public agency responsible for the student's education, is responsible for providing or paying for needed transition services;

(C) Where a participating agency, other than the public agency responsible for the student's education, has failed to provide agreed upon transition services, a statement that the public agency will reconvene a meeting of the participants on the IEP team to identify alternative strategies to meet the transition objectives in the student's IEP; and

(D) That with respect to IEPs of students with disabilities, "transition services" has the same meaning as the term "transition services," as defined in section 602(a)(19) of the Act.

As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(6) In accordance with section 613(a)(3) of the Act, throughout the period of the FY 1993 grant award, the State will implement a comprehensive system of personnel development (CSPD), consistent

with the purposes of the Act and with the CSPD described in section 676(b)(8) of Part H of the Act, that shall include--

(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including--

(i) the development and maintenance of a system for determining, on an annual basis--

(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including--

(I) the numbers of students enrolled in such programs, and

(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

(iii) the development, updating, and implementation of a plan that--

(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel

from minority backgrounds, and personnel with disabilities; and

(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, including--

(i) a system for the continuing education of regular and special education and related services personnel;

(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.

As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(7) In accordance with section 613(a)(15) of the Act, throughout the period of the grant award, the State will have in effect policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under Part H of the Act who will participate in preschool programs assisted under Part B of the Act, including a method of ensuring that when a child turns age three, an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to State statutes, regulations, or policies and procedures, as appropriate.

(8) In accordance with section 612(4) of the Act, throughout the period of the FY 1993 grant award, for each child with a disability aged three through five, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, each local educational agency or intermediate educational unit in the State, by the beginning of each school year, will establish an individualized education program for each child with a disability or an individualized family service plan described in section 677(d), and will then review and, if appropriate, revise its provisions periodically, but not less than annually. As soon as possible, but no later than July 1, 1993, the State will make conforming changes to

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

BEST COPY AVAILABLE

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEP 14 1992

SEP 8 [illegible]

Honorable Wayne G. Sanstead
Superintendent of Public Instruction
State Department of Education
State Capitol Building, 11th Floor
600 Boulevard Avenue East
Bismarck, North Dakota 58505-0440

Dear Superintendent Sanstead:

I am pleased to inform you that North Dakota's State Plan for fiscal years (FY) 1993-95 under Part B of the Individuals with Disabilities Education Act (Part B) has been conditionally approved. Therefore, it is my pleasure to enclose your State's Part B grant award for FY 1993.

Our conditional approval of your State Plan is based on our review and acceptance of the following documents submitted by the North Dakota Department of Public Instruction (NDDPI) to the Office of Special Education Programs (OSEP):

(1) The Part B State Plan for FY 1993-95, including documentation that your State has in effect a policy which assures the availability of a free appropriate public education for all children with disabilities, aged 3 through 5;

(2) The August 18, 1992 facsimile document from NDDPI to OSEP, in which NDDPI assures that as soon as possible, but no later than July 1, 1993, it will complete all of the State Plan, statutory and regulatory changes set forth in OSEP's July 30, 1992 facsimile communication to NDDPI.

In the August 18, 1992 document, NDDPI also assures that it will take steps to ensure that, throughout the period of this FY 1993 grant award, all public agencies in the State that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B, including those areas in which the current State statutes and regulations do not conform to the Part B requirements. NDDPI further assures that, no later than August 24, 1992, it (1) will send a memorandum to those agencies informing them that they must operate their programs in a manner fully consistent with Part B, and (2) notify the court system of the subject matter addressed in the assurances made by NDDPI. A copy of the memorandum and court notification were attached to the August 18, 1992 document sent to OSEP.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

(3) Your signed assurance statement regarding implementation of the new Part B State Plan requirements that were added by P.L. 101-476 and P.L. 102-119.

The three documents identified in the preceding paragraph, together with this conditional approval letter, collectively constitute North Dakota's conditionally approved Part B State Plan for FY 1993-95. Therefore, the August 18, 1992 document, the assurance statement regarding P.L. 101-476 and P.L. 102-119 and this conditional approval letter must be appended to your copies of the FY 1993-95 State Plan. NDDPI must indicate in the beginning of the Plan that these documents have been placed in an appendix.

As part of its FY 1993-95 Part B State Plan, your agency has made assurances required by 34 CFR §76.101, including the following: (1) "the State agency has the authority under State law to perform the functions of the State under the [Part B] program;" and (2) "the Plan is the basis for State operation and administration of the program" (see 34 CFR §§76.104(a)(2) and 76.104(a)(8)). The enclosed Part B grant award for FY 1993 is made with the understanding that the assurances made by your agency pursuant to 34 CFR §76.104 mean that your agency has, and will exercise, the authority to ensure that all public agencies in the State comply with all provisions of the plan; and that those agencies have been informed that they must comply with any additional requirements that your agency has established in the plan that are not also set forth in State statute or regulation.

I would like to remind you of the post-approval notification provision in 34 CFR §300.284, which requires your agency to "give notice in newspapers or other media, or both, that the plan is approved. The notice must name places throughout the State where the plan is available for access by any interested persons." Once the notice has been published, a copy should be submitted to OSEP.

The following paragraphs describe the actions that your agency must take to enable the State Plan to move from conditional to full approval:

As soon as your agency has prepared drafts of the revised State Plan documents, copies of those documents (e.g., proposed regulations and legislative bills) should be submitted to OSEP for review to ensure that they meet all of the conditions necessary for full approval.

Where your agency has assured OSEP that it will amend its regulations and statute, the State Plan also must be amended so that it is consistent with the regulations and statute. In addition, your agency must revise its monitoring system to ensure compliance with the amendments.

Where amendments to the plan are necessary because of regulatory or statutory changes, your agency may either insert each of the amendments in the appropriate section of the plan, or append the amendments to the plan. If your agency chooses to append some or all of the amendments, it must indicate in the beginning of the plan that such amendments have been placed in an appendix.

As soon as possible, but no later than July 1, 1993, your agency must provide OSEP with copies of all amended State Plan documents, including the revised regulations that have been adopted by the State Board of Education, the revised statute that has been enacted by the State Legislature, and the required amendments to the monitoring system.

Once a determination has been made that your State Plan meets all of the conditions necessary for full approval, we will send you a formal notice of our approval. Your agency then must (1) formally notify public agencies and other interested parties throughout the State that the amended documents have been approved, and (2) make the entire plan, as amended, available to parents and other members of the general public.

Your State's Part B grant award for FY 1994 (i.e., the grant period beginning July 1, 1993) will be issued as funds become available for obligation at the Federal level, and if, in addition to meeting the conditions noted above, the following criteria are met:

(1) The State meets the conditions of eligibility required under section 612 of the Act, including having in effect an approved Part B State Plan for the period of the FY 1994 award;

(2) Your agency submits amendments to the Part B State Plan to conform to the changes required by P.L. 101-476 and P.L. 102-119 and those amendments are approved by OSEP; and

(3) Your agency provides OSEP with copies of (a) all required certifications, including ED Form 80-0013, and (b) all required reports, including the Annual Data Report and Annual Performance Report.

The enclosed grant award for FY 1993 is made with the continued understanding that this Office may, from time to time, require clarification of information within your State Plan. These inquiries are necessary to allow us to appropriately carry out our responsibilities related to Part B.

We appreciate your ongoing commitment to the provision of quality educational services to children and youth with disabilities.

Sincerely,

Robert R. Davila
Assistant Secretary

Enclosure

cc: Gary Gronberg

WASHINGTON, D.C. 20202

GRANT AWARD NOTIFICATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

1 RECIPIENT NAME

ND STATE DEPT. OF PUBLIC INSTR.

600 BOULEVARD AVENUE EAST
BISMARCK, ND 58505

2 PROJECT TITLE

GRANTS TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES
- STATE GRANTS -

3 EDUCATION STAFF

PLEASE DIRECT PROGRAM INQUIRIES TO
THOMAS B. IRVIN (202)205-8825
U.S. DEPARTMENT OF EDUCATION
MES BUILDING, ROOM 3625
400 MARYLAND AVENUE, SW
WASHINGTON, DC. 20202

PLEASE DIRECT FINANCIAL INQUIRIES TO
CAROLYN DOLLAND (202)401-1504
U.S. DEPARTMENT OF EDUCATION
FOB-6, ROOM 3083
400 MARYLAND AVENUE, SW
WASHINGTON, DC. 20202

4 AWARD INFORMATION

PR/AWARD NUMBER	H027A20049
ACTION NUMBER	01
ACTION TYPE	NEW
AWARD TYPE	FORMULA

5 AWARD PERIODS

BUDGET PERIOD	07/01/92 - 09/30/94
PROJECT PERIOD	07/01/92 - 09/30/94

6 AUTHORIZED FUNDING

CURRENT AWARD AMOUNT	4,869,339
CUMULATIVE AMOUNT	4,869,339
RECIPIENT COST SHARE	0%

7 ADMINISTRATIVE INFORMATION

PAYMENT METHOD	ED PMS
ENTITY NUMBER	1-450001056-A1
STATE APPL ID #	
ATTACHMENTS	LETTER

8 LEGISLATIVE & FISCAL DATA

AUTHORITY: INDIVIDUALS WITH DISABILITIES EDUCATION ACT
PROGRAM TITLE: STATE GRANTS
CFDA 84.027A

APPROPRIATION	FY	CAN	OBJECT CLASS	AMOUNT
91 [illegible]/30300	92	E001110	4110	4,869,339

9 TERMS AND CONDITIONS OF AWARD

WHEN ISSUING STATEMENTS, PRESS RELEASES, REQUESTS FOR PROPOSALS, BID SOLICITATIONS AND OTHER DOCUMENTS DESCRIBING PROJECTS OR PROGRAMS FUNDED IN WHOLE OR IN PART WITH FEDERAL MONEY, ALL GRANTEES RECEIVING FEDERAL FUNDS, INCLUDING BUT NOT LIMITED TO STATE AND LOCAL GOVERNMENTS, SHALL CLEARLY STATE (1) THE PERCENTAGE OF THE TOTAL COSTS OF THE PROGRAM OR PROJECT WHICH WILL BE FINANCED WITH FEDERAL MONEY, (2) THE DOLLAR AMOUNT OF FEDERAL FUNDS FOR THE PROJECT OR PROGRAM AND (3) PERCENTAGE AND DOLLAR AMOUNT OF THE TOTAL COSTS OF THE PROJECT OR PROGRAM THAT WILL BE FINANCED BY NON-GOVERNMENTAL SOURCES.

Dr. Robert Davila
AUTHORIZED OFFICIAL

9/8/92
DATE

Ver. 1

ED - GCS 007 (11/88)

PLEASE SEE OTHER SIDE FOR MORE INFORMATION

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

October 30, 1992

MEMO TO: North Dakota School Administrators
North Dakota Special Education Directors
County Superintendents

FROM: Gary Gronberg, Director of Special Education

SUBJECT: Award of funds under Part B of IDEA

The North Dakota Department of Public Instruction has received conditional approval of the FY 1993-95 State Plan for Part B, Individuals with Disabilities Education Act. However, the U.S. Office of Education requires that certain legislative changes be made so that North Dakota regulations will be consistent with federal law. The Department will bring the proposed changes before the Legislature during the upcoming session.

The State Plan document, with changes included, will not be distributed until after the legislative session. Draft copies of the State Plan were distributed to the Special Education Directors and County Superintendents in March 1992 and these people may be contacted if you wish to reference it. If you have any questions about the State Plan, please contact the Office of Special Education at 224-2277.

I have enclosed an announcement of the funding award and request that you post it to inform the persons named.

JN/lda
Enclosure

School for the Deaf, Devils Lake, ND (701) 662-6031
School for the Blind, Grand Forks, ND (701) 777-4144
State Library, Bismarck, ND (701) 224-4622
Div. of Independent Study, Fargo, ND (701) 239-7282

NOTICE OF PART B
INDIVIDUALS WITH DISABILITIES EDUCATION ACT
AWARDED FOR FISCAL YEAR 1993
TO THE NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION

TO PARENTS; TEACHERS; ADMINISTRATORS; BOARDS OF EDUCATION; TEACHER TRAINING INSTITUTIONS; AND ALL OTHER PERSONS WHOM IT MAY CONCERN:

You are hereby notified that the Fiscal Years 1993-1995 North Dakota State Plan for Part B, Individuals with Disabilities Education Act, has been conditionally approved by the United States Secretary of Education and a grant awarded to the state of North Dakota in the amount of $4,869,339. The priority for said funds shall be the improvement of services for children with disabilities, including preschool. The IDEA Part B funds are not to be used to supplant local or state monies, but rather to help defray the excess cost of special education and related services. The contents of the North Dakota IDEA State Plan include a reaffirmation of the North Dakota goal for providing full education opportunities to all children with disabilities and the procedures to be used by the Department of Public Instruction in meeting the provisions of P.L. 100-476. Copies of the State Plan may be obtained from the Division of Special Education, North Dakota Department of Public Instruction, 600 East Boulevard Avenue, 10th Floor, State Capitol, Bismarck, ND 58505-0440.

PLEASE POST - PLEASE POST - PLEASE POST

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

April 1, 1993

MEMO TO: Special Education Directors

FROM: Gary W. Gronberg, Director
Special Education Division, NDDPI

SUBJECT: Amendments to IDEA FY 1993-95 State Plan

Enclosed is a copy of the proposed amendments to our state plan that have resulted from OSEP review. Please review these and contact our office with your comments.

This office has published the following public notice:

> "Proposed amendments to the North Dakota Individuals with Disabilities Education Act State Plan for FY 1993-95 are available for public comment from April 7 - May 7, 1993. The original plan is also available, although only the amendments will receive public comment. To review a copy, contact your local special education director or Gary Holm, Director of Federal Programs, North Dakota Department of Public Instruction, 600 East Boulevard Avenue, Bismarck, ND 58505-0440, or call (701) 224-2277."

We appreciate your cooperation in making the amendments available through your office to persons who wish to review it.

GWG/lda
Enclosure

School for the Deaf, Devils Lake, ND (701) 662-8031
School for the Blind, Grand Forks, ND (701) 777-4144
State Library, Bismarck, ND (701) 224-4622
Div. of Independent Study, Fargo, ND (701) 239-7282

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

April 1, 1993

MEMO TO: Bismarck Tribune, FAX # 224-1412
Devils Lake Daily Journal, FAX # 662-3115
Dickinson Press, FAX # 225-4[illegible]5
Fargo Forum, FAX # 241-5478
Grand Forks Herald, FAX # 780-1184
Jamestown Sun, FAX # 251-2873
Minot Daily News, FAX # 852-3570
Valley City Times-Record, FAX # 845-0175
Wahpeton Daily News, FAX # 642-1501
Williston Daily Herald, FAX # 572-1965

FROM: Gary Holm, Director of Federal Programs
North Dakota Department of Public Instruction

SUBJECT: Legal Notice

Please publish the following notice on Monday, April 5.

> Proposed amendments to the North Dakota Individuals with Disabilities Education Act State Plan for FY 1993-95 are available for public comment from April 7 - May 7, 1993. The original plan is also available, although only the amendments will receive public comment. To review a copy, contact your local special education director or Gary Holm, Director of Federal Programs, North Dakota Department of Public Instruction, 600 East Boulevard Avenue, Bismarck, ND 58505-0440, or call (701) 224-2277.

Send the bill and tear sheet to:

North Dakota Department of Public Instruction
Office of Fiscal Management
600 East Boulevard Avenue
Bismarck, ND 58505-0440

Thank you.

GH/lda

cc: Fiscal Management

School for the Deaf: Devils Lake, ND (701) 662-6031
School for the Blind: Grand Forks, ND (701) 777-4144
State Library: Bismarck, ND (701) 224-4622
Div. of Independent Study: Fargo, ND (701) 239-7282

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

April 13, 1993

MEMO TO: IDEA-B Advisory Committee

FROM: Gary Holm
Director of Federal Programs
Special Education Division, NDDPI

SUBJECT: Amendments to IDEA FY 1993-95 State Plan

Enclosed is a copy of the proposed amendments to our state plan that have resulted from OSEP review. Please review these amendments and contact our office with your comments no later than May 7, 1993.

GH/lda
Enclosure

School for the Deaf, Devils Lake, ND (701) 662-5031
School for the Blind, Grand Forks, ND (701) 777-4144
State Library, Bismarck, ND (701) 224-4622
Div. of Independent Study, Fargo, ND (701) 239-7252

XXX

THE STATE OF NORTH DAKOTA

Department of Public Instruction

600 E. Boulevard Ave. Bismarck, North Dakota 58505-0440

Dr. Wayne G. Sanstead, SUPERINTENDENT (701) 224-2260 Fax (701) 224-2461

April 13, 1993

MEMO TO: Interested Persons

FROM: Gary W. Gronberg, Director
Special Education Division, NDDPI

SUBJECT: Amendments to IDEA FY 1993-95 State Plan

Enclosed is a copy of the proposed amendments to our state plan that have resulted from OSEP review. Please review these amendments and contact our office with your comments no later than May 7, 1993.

GWG/lda
Enclosure

School for the Deaf
Devils Lake, ND
(701) 662-5031

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Grand Forks, ND
(701) 777-4144

State Library
Bismarck, ND
(701) 224-4622

Div. of Independent Study
Fargo, ND
(701) 239-7282

XXXI

The following comments were offered by the public concerning amendments to the North Dakota State Plan, FY 1993-95.

One person commented that a hearing requested by an application filed pursuant to Sections 4 or 5 should be scheduled at a time and place that is reasonably convenient to *the special education unit as well as to the parent and child involved.*

Response: Wording follows that of September 29, 1992 regulations (300.512 d).

One person commented that one sentence in the proposed revision concerning Attorneys' Fees was superfluous and should be dropped.

Response: Wording is that found in NDCC and cannot be dropped.

One person questioned if there was a timeline on when the written request must be submitted for relief sought prior to a proceeding (Page 21, Section 15).

Response: No

One person asked the criteria for qualified personnel with regard to "Rehabilitation counseling services" (Appendix A, Reg. 300.13, Related Services)

Response: "Qualified" will be established through subsequent federal and state definitions.

PART 2

SUBSTANTIVE REQUIREMENTS

The North Dakota State Plan for Fiscal Years 1993-95 was submitted to the U.S. Office of Education Programs (OSEP) on May 1, 1992. Conditional approval for the plan was given by OSEP in a letter dated September 8, 1992. Subsequently, the Department of Public Instruction responded to the need to revise wording, present proposed legislation, and address new OSEP requirements. Proposed amendments were drafted and submitted for a thirty day public comment period on April 7, 1993. The State Plan was revised based on public comments and OSEP requirements, and were submitted to OSEP on May 17, 1993. Amendments are integrated into the original State Plan which is presented in this section.

NORTH DAKOTA STATE PLAN
FY 1993-1995
May, 1993

I. RIGHT TO EDUCATION POLICY STATEMENT (20 U.S.C. 1412(1) and 1912(2)(B); 34 CFR 300.121-122)

A. Policy

North Dakota assures that all children with disabilities ages 3 through 21 have the right to a free appropriate public education. This policy includes all children with disabilities in accordance with definitions as listed in Public Laws 101-476 and 102-119. (See Appendix A for definitions.)

B. Procedures

The North Dakota Department of Public Instruction has assumed responsibility for all students with disabilities who receive their special education and related services in public schools, state operated schools, institutions, and other public agencies.

North Dakota Century Code 15-59-06.1 provides specific authority for the Department's responsibility for institutional programs:

> "The Superintendent of Public Instruction shall enforce educational standards for all special education programs in institutions wholly or partly supported by the state which are not supervised by public school authorities. Such standards shall be similar to regulations and standards established for the conduct of special education classes of the public schools in the state."

The Department of Public Instruction requires all other public and private agencies in the state which wholly or partly serve students with disabilities to review Public Laws 101-476 and 102-119 requirements and to assure compliance to the Department of Public Instruction.

Interagency agreements continue to be reviewed and revised yearly. The agencies involved are North Dakota Department of Health and Consolidated Laboratories; Region VIII Administration for Children, Youth, and Families Representing Head Start Agencies in North Dakota; North Dakota Department of Human Services, Divisions of Developmental Disabilities and Vocational Rehabilitation; Department of Corrections; the State Board for Vocational Education; and Job Service.

North Dakota Century Code 15-59-01.1 DEFINITIONS, defines the "child with disabilities" and the age limits for providing special education programs to children with disabilities. This statute provides the basis for programming for children with disabilities ages 3 through 21.

> "Child with disabilities" means a child who has reached the third birthday, and has not reached the age of twenty-one years by midnight of August thirty-first, who because of mental, physical, emotional, or learning characteristics requires regular or special education and related aids and services designed to meet individual education needs. This includes children who are mentally retarded, hard of hearing, deaf, deaf-blind, speech or language impaired, visually impaired, seriously emotionally disturbed, specific learning disabled, orthopedically impaired, otherwise health impaired, autistic, or traumatic brained injured.

North Dakota Century Code 15-59-04 SCHOOL DISTRICTS TO PROVIDE SPECIAL EDUCATION defines the timeline to mandate special education services to preschool children with disabilities.

> "School districts shall provide special education to handicapped children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with the director of special education and with the institutions of the state. Each school district shall submit a plan with the Superintendent of Public Instruction for implementing special education in the district. Special education services to handicapped children three to six years of age shall be fully implemented by July 1, 1985. School districts may provide special education to gifted children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with the director of special education."

The Department of Public Instruction has advised parents that if they suspect their child has a disability, they should contact the school district superintendent or local director of special education for further identification and evaluation. Appendix B includes the North Dakota Century Code special education laws.

FULL EDUCATIONAL OPPORTUNITIES GOAL AND TIMELINES

A. Goal Statement (20 U.S.C. 1412(2)(A); 34 CFR 300.123)

The Department of Public Instruction affirms the goal of providing full educational opportunity to all children with disabilities ages 0 through 21 by the year 2000.

B. Procedure

North Dakota's present special education mandate is to serve all children with disabilities ages 3 through 21.

Special education services to children with disabilities ages 0 through 2 is the responsibility of the Department of Human Services as established in North Dakota Century Code 25-16-10, and the appointment as lead agency by the Governor of North Dakota to carry out the provisions of Part H. Through a contract with the Developmental Disabilities Division of the Department of Human Services, the Department of Public Instruction is also able to provide participation for the Infant Development Programs in the Public Law 100-297 program.

Data requirements for 300.124-300.126 are met through the submission of the Annual Data Report (ED 869).

C. Qualitative Improvements in Programs and Services

Plans to improve programs and services related to implementation of the full educational opportunity goals are described below.

1. As of July 1, 1993, the Department of Public Instruction will require (a) the development of an assessment plan for each child suspected of having a disability, and (b) the preparation of a written integrated summary report of assessment results for each child referred for an evaluation.

2. Inservice training will be developed and conducted throughout the state regarding assessment planning and reporting. Training will emphasize the need for team efforts, gathering information from multiple sources, and use of observational data as a significant source of relevant data about the child.

3. In determining assessment procedures, consideration will be given to assessment of projected needs related to life skills, adult independence, and other lifelong learning needs that should be addressed in the transition plan.

4. Analysis of assessment data will to directly related to successful instructional plans.

5. Ongoing assessment will be based on day to day program monitoring, with consideration at least annually (at the IEP review) of other problem areas or interferences to successful learning that have not yet been identified.

6. Step I, a regular education intervention, has been required for all children suspected of having a specific learning disability. As of July 1, 1992, the Department of Public Instruction will require Step I for all children suspected of having any disability, including specific learning disabilities. The use of Step I ensures that children have the opportunity to demonstrate achievement commensurate with their age and ability, given appropriate learning situations.

   Educational personnel throughout North Dakota are trained in Step I through Building Level Support Team Workshops co-sponsored by the regular education and special education divisions of the Department of Public Instruction. A study to describe the characteristics of successful and unsuccessful teams is in progress, with results used to identify demonstration sites, provide additional training opportunities, and to strengthen teams throughout the state.

7. The Early Childhood Tracking System for monitoring development of at-risk children, ages birth through five years, was fully implemented in 1990. The system will assist with early identification of children's unique needs and allow greater opportunity to plan for services needed, including special education.

8. A plan will be developed and implemented to gather and disseminate information on the disability categories of traumatic brain injury and autism (e.g., identification, diagnosis, prognosis, best practices in assessment and interventions, etc.).

9. Information relating to assistive technology and services (e.g., evaluation of need of devices and services, selection and provision of devices and services, coordination with services and interventions, training and technical assistance for users and professionals who provide services and devices, etc.) will be reviewed, related procedures will be developed, and information will be disseminated to relevant audiences.

10. Guidelines on consultation will be developed for administrative, direct services, and related services personnel.

11. The importance of transition planning and services beginning at age 14 will continue to be emphasized through design of follow-up studies of students who received special education and of projected need for adult services.

12. A review and revision of North Dakota's regulations will continue. Criteria for eligibility, teacher/child ratio, credentials, and other requirements will be revised as appropriate.

The qualitative improvements described above will impact all children within each disability category and age category.

III. CHILD IDENTIFICATION (20 U.S.C. 1412(2)(C); 34 CFR 300.128)

A. Policy

The North Dakota Department of Public Instruction assures that all children residing in North Dakota who have disabilities and who are in need of special education and related services will be identified, located, and evaluated.

The special education unit and the unit's director of special education are the central referral point for information regarding identified children with disabilities ages 0 through 21. Each director is required to annually report identified children with disabilities ages 3-5, 6-11, 12-17, and 18-21 for the annual report and in the Child Information data collection system used for Child Count each December. The directors of the infant development programs are required annually the children with disabilities, ages 0-2 to report to the Department of Public Instruction.

Each director of special education will work collaboratively with other community/regional agencies to develop a plan for location and identification of children ages 0 through 5 for the unit to assure that selective screening is available and that children with disabilities identified as a result of the screening and subsequent evaluations are reported.

This facet of identification policy will be monitored on the regular monitoring schedule.

An early childhood tracking system for monitoring development of at-risk children, ages 0 through 5, has been developed through an interagency effort and is fully operational throughout the state as of 1990. The system assists with early identification of children in need of a wide range of services including special education.

B. Procedures

The Department of Public Instruction will be responsible for statewide planning and implementation of child identification, location, and evaluation efforts.

1. Each special education unit, in its special education plan submitted to the Department of Public Instruction, has a procedure for identifying and evaluating

all children with disabilities ages 0 through 21 in the unit. The plan describes cooperative efforts with the infant development programs serving children with disabilities ages birth through 2 and other agencies in child identification and evaluation responsibilities. Special education directors and school superintendents are responsible for implementing and monitoring the plans. Unit plans are also reviewed and approved by the Department of Public Instruction.

2. The Child Identification Subcommittee of the North Dakota Interagency Coordinating Council (serving children ages 0 through 5) has conducted a survey concerning current practice in child identification for children ages 0 through 5 by various statewide agencies. The resulting information has been compiled and recommendations of the subcommittee were presented to the Interagency Coordinating Council, the Department of Public Instruction, and the Department of Human Services (lead agency for infant development services, 0 through 2). This information has been used to develop more comprehensive procedures for child identification that will expand to a wider range of agencies, including medical services and Head Start programs. Examples of these procedures include: (1) a multiagency Child Find campaign with specific components targeted to each agency (e.g., physicians will disseminate developmental wheels to parents of young children, community health nurses will disseminate child growth charts, etc.); (2) the State Health Department has agreed to allow its toll free information number to be printed on all early childhood Child Find materials (a data base regarding information and agency services will be available for those calling the toll free number); and (3) the names of participating agencies will be printed on all materials (e.g., American Academy of Pediatricians, North Dakota Early Childhood Tracking System, State Health Department, etc.). Interagency agreements with appropriate agencies are being established to facilitate comprehensive child identification (draft agreement included in appendices).

3. Major agencies in addition to the Department of Public Instruction that provide related, evaluative, or educational services to children with disabilities ages birth through 21, required under the Public Laws 101-476 and 102-119 are:

<u>College and University Clinics</u>

Medical Rehabilitation Hospital
and Child Evaluation Center
(University of North Dakota), Grand Forks
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

Speech and Hearing Clinic
(University of North Dakota), Grand Forks
Nature of Services: Evaluation and Education
Ages: 0-5; 6-21

Child Evaluation Clinic
(Minot State University), Minot
Nature of Services: Evaluation
Ages: 0-5; 6-21

Speech and Audiology Clinic and Sertoma Hearing Clinic
(Minot State University), Minot
Nature of Services: Evaluation and Education
Ages: 0-5; 6-21

<u>Private Schools</u>

The Anne Carlsen School, Jamestown
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

<u>State Agencies</u>

State Board for Vocational Education
Nature of Services: Evaluation and Education
Ages: 14-21

Job Service North Dakota
Nature of Services: Evaluation and Education
Ages: 14-21

Crippled Children's Service
(Department of Human Services), Bismarck
Nature of Services: Related, Evaluation
Ages: 0-5; 6-21

Vocational Rehabilitation
(Department of Human Services), Bismarck
Nature of Services: Evaluation
Ages: 14-21

State Industrial School, Mandan
(Director of Institutions), Bismarck
Nature of Services: Evaluation and Education
Ages: 6-21

State Hospital, Jamestown
(Department of Human Services), Bismarck
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

School for the Blind, Grand Forks
(Department of Public Instruction), Bismarck
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

School for the Deaf, Devils Lake
(Department of Public Instruction), Bismarck
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

State Developmental Center, Grafton
(Department of Human Services), Bismarck
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

Maternal and Child Health
(State Department of Health), Bismarck
Nature of Services: Related
Ages: 0-5; 6-21

Community Health Nursing
(State Department of Health), Bismarck
Nature of Services: Related
Ages: 0-5; 6-21

Bureau of Health Statistics
(State Department of Health), Bismarck
Nature of Services: Related
Ages: 0-5; 6-21

Day Care Centers
(Department of Human Services), Bismarck
Nature of Services: Related
Ages: 0-5

Area Human Services Centers
(Department of Human Services)
Eight Regional Locations
Nature of Services: Related, Evaluation and Education
Ages: 0-5; 6-21

Federal Programs

North Dakota Head Start Programs
12 Regional Locations, 4 Reservation Programs
Nature of Services: Related
Ages: 3-5

Bureau of Indian Affairs Special Education Programs
4 Reservation Locations
Nature of Services: Related, Evaluation and Education
Ages: 3-21

Indian Health Service
4 Reservation Locations
Nature of Services: Related, Education
Ages: All Ages

C. Activities

1. Activities to be completed annually.

a. Project Child Find - Coordinating Agency: Department of Public Instruction, Interagency Coordinating Council

(1) Timelines

September - Project Child Find Week will be conducted at the state and local level.

Ongoing - Follow-up screening and evaluative services will be provided.

Project Child Find information continues to be disseminated through brochures, parent-teacher meetings, professional organizations, other agencies, etc.

(2) Outcomes

Unidentified children with disabilities will be identified. The special education unit as the local coordinating agency will begin the program planning process for children suspected of having disabilities, birth through 21. Referrals on children birth through two will be made to the Developmental Disabilities System.

(3) Resources

Child Find activities sponsored jointly by the Department of Public Instruction and the Departments of Health and Human Services include notification to the officially designated newspapers, public service announcements, statewide television and radio paid advertisements, and written notification to all public agencies responsible for programs for children with disabilities. In addition, Child Find materials will be disseminated to families through agencies that come in contact with children and families (physicians, public health nurses, Head Start personnel, etc.).

b. Other Child Identification - Coordinating Agency: Special Education Unit

Exemplary preschool projects and interagency cooperation providing ongoing evaluative and programming services.

(1) Preschool Screening

Children with disabilities, ages 3 through 5, are referred to special education units through Project Child Find, parents, public health nurses, and other agencies. The biennial school census as required by law, enumerates all children suspected of having disabilities ages 0 through 5. Special education units in North Dakota participate in

interagency screening activities for at-risk children 3 through 5 years of age. Other agencies involved in the screening activities include Special Education, Head Start, Maternal and Child Health, EPSDT, WIC, and other local programs. This "selective screening" process is available to young at-risk children year round and is closely coordinated with the ND Early Childhood Tracking System.

(2) Selective Screening

Selective screening is done to determine the significance of identified risk conditions to the child's growth and development or academic performance. The result of the screening process is a systematic collection of information for every student screened which helps determine whether there is a need for referral to the building level support team or for evaluation.

Screening will be performed by qualified personnel and may include:

a. vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;

b. hearing which includes a screen to verify any hearing risk indicators;

c. speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;

d. preschool screening which typically includes vision, hearing, cognitive, motor, speech-language, and health components to verify developmental delays;

e. academic screening for school age children to determine the significance of academic delays; and

f. screening for secondary level students who are at-risk or have dropped out to verify that the reasons for dropping out are not related to a previously unidentified disability.

(3) Dropout Identification

All special education units have established screening and identification procedures for secondary level students who may have dropped out or for other reasons have not received an adequate education program. Programs include evaluations, programming, and referrals to other agencies when appropriate (see III.B.3.). An outcome of the dropout identification activities will identify students who may have disabilities.

c. A contract between the Department of Human Services and the Department of Public Instruction to utilize Public Law 100-297 funds to support services to children with disabilities ages 0 through 2 has been in place since 1981. The Department of Human Services contracts with local service providers for appropriate programming.

2. Special education units and programs in other agencies responsible for the education of children with disabilities are required to submit reports to the Department of Public Instruction which are used to determine which children are and are not receiving special education and related services. Reports request individual pupil data, personnel needs, vacant teaching positions, and data from Child Find activities. Units are also monitored for this area by the Department of Public Instruction. Technical assistance is available upon request.

IV. INDIVIDUALIZED EDUCATION PROGRAM (20 U.S.C. 1412(4); 34 CFR 300.130 and 300.340-300.349)

A. Policy and Standards

Policies, standards, and procedures relating the Individualized Education Program are set forth in the *Guidelines for the State Recommended Individual Education Plan (IEP), 1991*, prepared by the Department of Public Instruction. The document is attached as Appendix C. See also North Dakota Special Education Laws (Appendix B).

Department of Public Instruction Responsibility (300.341)

1. All special education units, state operated programs, and programs in other public agencies shall provide assurances that each agency will maintain an individualized education program (IEP) for each child with a disability each school year and will review, and if appropriate, revise its provisions periodically but not less than annually. The special education unit of the student's residence is responsible for initiating, implementing, and coordinating the individualized education program regardless of where the child is served in another special education unit, institution, or private school.

2. Each special education unit (public agency) of the student's residence is responsible for a student's education whether in the local school (public, parochial, or other private) or in another school or facility through contract. The special education unit is responsible for initiating and conducting a planning conference before referring a child to a private school or facility and to ensure that an appropriate individualized education program will be implemented, reviewed periodically and revised at least annually.

When the IEP Must be in Effect (300.342)

3. If the child has been receiving special education the previous year, a planning meeting with parents and staff must be held early enough in the school year to ensure that an IEP is in effect at the beginning of the school year. This meeting may have been held prior to the end of the previous school year.

4. An IEP must be in effect before placement is made in special education, and before special education and related services are provided to a child, and the IEP will be implemented as soon as possible following the IEP meeting.

IEP Meetings (300.343)

5. The special education unit is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability.

6. For a student newly identified, a planning meeting with parents and staff must be held within thirty calendar days of the time that the child has been identified as having a disability. The IEP for the student with a disability must be developed and in place before placement in special education is made.

7. The special education unit shall initiate and conduct meetings to periodically review each child's IEP and if appropriate revise its provisions. A meeting must be held for this purpose at least once a year.

8. In the case where a participating agency, other than the educational agency, fails to provide agreed upon transition services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

Participants in Meetings (300.344)

9. The education program planning committee meeting will include but not be limited to the following persons:

   a. a representative of the school administration that has authority to commit resources (superintendent, principal, or director of the special education unit),

   b. the student's teacher, regular education teacher or person knowledgeable regarding characteristics typical of the chronological age of the student,

   c. appropriate special education personnel,

   d. one or both parents,

   e. child (when appropriate). When a purpose of the meeting is consideration of transition services for a student, the school will invite the student. If the student does not attend, the school shall take other steps to ensure that the student's preferences and interests are considered.

f. for a child evaluated for the first time: (1) a member of the evaluation team; (2) a representative of the school district or special education unit, teacher, or other person knowledgeable about evaluation procedures used and results,

g. transition services personnel for students with disabilities aged 14 years and older, and for students below age 14 whose need for transition services is being considered. The public agency will invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school shall take other steps to obtain the participation of the other agency in the planning of any transition services.

h. other individuals at the discretion of the parent or agency.

Parent Participation (300.345)

10. Parents must be afforded an opportunity to participate in the planning conference and must be notified early enough to ensure an opportunity to attend. This notice must indicate the purpose, time, and location of the meeting and who will attend. If a purpose of the meeting is the consideration of transition services for a student, the notice must also indicate this purpose; that the agency will invite the student; and identify any other agency that will be invited to send a representative. The time and place must be mutually agreed upon and the parents afforded alternative opportunities should they be unable to attend. Alternative methods including telephone calls will be used to ensure parent participation when parents cannot attend. The parents will receive a copy of the IEP on request.

11. A meeting to develop, review, and revise the IEP may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. Documentation must be kept of attempts to arrange a mutually agreeable setting with parents before the conference may occur without the parents. Examples of documentation include: (a) detailed records of telephone calls made and attempted and the results of those calls, (b) copies of correspondence sent to the parents and any responses received, and (c) detailed records of visits made to the parent's home or place of employment and the results of those visits.

Interpreters or other facilitators must be provided to insure parental participation when communication barriers such as different native language or deafness exist.

Content of IEP (300.346)

12. The individualized education program (IEP) for each student will include:

a. a statement of the child's present level of educational performance including unique patterns of functioning that will lay a foundation for succeeding components of the IEP. When a student reaches age 14, transition performance must be included and addressed, as appropriate: (1) jobs and job training, (2) recreation and leisure, (3) home living, (4) community participation, (5) postsecondary training and learning opportunities.

b. a statement of the annual goals describing anticipated behavior to be achieved, the desired ending level of achievement, and the intent or purpose for achievement.

c. a statement of the short term instructional objectives (STO) and schedules for determining if short term objectives are achieved. Each STO will include five components: (1) conditions or circumstances under which the behavior is to be performed, (2) performance of specific behaviors, (3) criteria for attainment or level of performance statements, (4) evaluation procedures for determining whether the STO is being met, and (5) schedule for determining, on at least an annual basis, whether the STO has been met.

d. a statement of the characteristics of services (nature and scope) that are necessary to meet the stated objectives.

e. a statement of the special education services to be provided including special education and related services required to meet the student's unique needs.

f. projected date for the initiation and anticipated duration of service.

g. a description of adaptations in educational services that are needed for the student to meet goals and objectives, as well as subsequent accommodations to permit successful inclusions of the student in general education settings.

h. a description of the extent to which the student will participate in regular education programs including program options, extracurricular and nonacademic activities, and physical education. Alternative sites and settings must be considered and documented (least restrictive environment).

i. a statement of the needed transition services as defined in 300.18 for students beginning no later than age 14 and annually thereafter (and, when determined appropriate for the individual, beginning at an age younger than 14 years), including, when appropriate, a statement of each participating agency's responsibilities or linkages, or both, before the student leaves the school setting. If the IEP team determines that services are not needed in one or more of the areas specified in 300.18, the IEP must include a statement to that effect and the basis upon which the determination was made.

Agency Responsibilities for Transition Services (300.347)

13. If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student with a disability, the school district responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP.

    Nothing relieves any participating agency, including the state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

Private School Placements (300.348)

14. When a child with a disability is placed in a private school, institution, or in a public school district other than the child's district of residence by the special education unit (or Department of Public Instruction under specific provisions of Public Laws 101-476 and 102-119), policies are established for development, maintenance, and evaluation of the individualized education program.

    a. Before a special education unit/local education agency places a child with a disability in, or refers a child to a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with 300.343. The unit/agency shall also develop an IEP for each child with a disability who was placed in a private school or facility by the agency before the effective date of regulations.

    b. The agency shall insure that a representative of the private school facility attends the meeting. If the representative cannot attend, the agency shall use other methods to insure participation by the private school or facility, including individual or conference telephone calls.

    c. The student's school district of residence is responsible for the development and will ensure implementation of the IEP for each child with a disability.

    d. After a child with a disability enters a private school or facility, meetings to review and revise the child's IEP may be initiated and conducted by the private school, nonpublic and public agency in which the child is placed with consent of the child's school district of residence.

    e. If the private school or facility initiates and conducts these meetings, the public agency shall insure that the parents and an agency representative: (1) are involved in any decision about the child's IEP; and (2) agree to any proposed changes in the program before those changes are implemented.

    f. When a child with a disability is enrolled in a private school and is receiving services from a special education unit, the special education unit will initiate and conduct meetings to develop, review, and revise an IEP for the child and

will ensure implementation of the IEP and that the private representatives are included in the meetings.

g. Even if a private school or facility implements a child's IEP, compliance responsibility remains with the child's school district of residence and the Department of Public Instruction.

Children with Disabilities in Parochial and Other Private Schools (300.349)

15. If a child with a disability is enrolled in a parochial or other private school and receives special education or related services from a public agency, the public agency shall: (a) initiate and conduct meetings to develop, review, and revise an IEP for the child, in accordance with 300.343; and (b) insure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls.

IEP Accountability (300.350)

16. Each public agency must provide special education and related services to a child with a disability in accordance with an IEP.

B. State Statute

North Dakota Century Code 15-59-02.1 LEGISLATIVE INTENT -SPECIAL EDUCATION, provides for the development of an individualized education program:

"The school administrator or his appointed representative or director of special education other than the child's teacher is responsible for bringing together professionals and parents to share assessment information related to all areas of suspected disability, develop an individualized education program plan for the handicapped student and make recommendations for required special education and related services."

C. Monitoring

Procedures to monitor development, revision, and implementation of IEPs are attached as Appendix D. Standards used in monitoring are included in *Guidelines for the State Recommended Individual Education Plan (IEP)*, Appendix C.

1. All public and private schools and institutions must assure the Department of Public Instruction that each student with a disability will have an IEP that will be available for review by the Department of Public Instruction on request at the school site.

2. Each special education unit will include in the Public Laws 101-476 and 102-119 application to the Department of Public Instruction an assurance that IEPs are completed for each student with a disability in the program. State operated programs must also include the assurance in the Public Law 100-297 application submitted to the Department of Public Instruction.

3. The Department of Public Instruction will, through the annual monitoring process, evaluate the content and appropriateness of IEPs in approximately twenty (20) percent of the special education units in the state.

4. All special education units and state operated programs will be required to follow state guidelines in preparing IEPs for children served.

V. PROCEDURAL SAFEGUARDS (20 U.S.C. 1412(5)(A); 34 CFR 300.131, 300.136 and 300.500-300.514)

A. Implementation Procedures - Department of Public Instruction (300.136)

The Department of Public Instruction requires each special education unit to submit in its application, policies and procedures that ensure effective implementation of procedural safeguards for children with disabilities served by the special education unit. The Department of Public Instruction developed *Guidelines for the State Recommended Parent Rights, Prior Notice, and Parent Consent Procedures (1991)*, including the brochure *Parental Rights in Special Education* (see Appendix E). These

documents were the basis for state-wide training of all special educators during the 1991-92 school year. The brochure, or one including the same components and which is state approved, must be used in all special education units when prior notice is provided to parents.

Procedural safeguards are included in the Department of Public Instruction *Guide I - Laws, Policies, and Regulations for Special Education for Exceptional Students*. Each special education director receives a copy of the guidelines and is responsible for assuring to the Department of Public Instruction that their staff follow the regulations. (See Appendix F.)

B. General Responsibility of Public Agencies (300.501)

The Department of Public Instruction assures that the requirements in 300.500 - 300.514 are met and implemented by each special education unit.

The Department of Public Instruction, through its annual monitoring process in approximately twenty (20) percent of the special education units in the state, evaluates the procedures and materials related to procedural safeguards. (See Appendix D for monitoring procedures.)

C. Opportunity to Examine Records (300.502)

1. Policy

The North Dakota Department of Public Instruction assures that children with disabilities and their parents are guaranteed the opportunity to examine all educational records pertaining to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such a child.

2. Regulations

The local school district must provide all records to the parent of the student with a disability within five working days of a written request. The records must be made available to the parent or guardian on request at no cost except for actual cost of the duplication of the records if a duplicate is requested by parents. The special education unit must inform other agencies that all records maintained on an individual at the special education unit will be accessible to the parents.

D. Independent Educational Evaluation (300.503)

1. Policy

A parent of a child with a disability has the right under this part to obtain an independent educational evaluation of the child at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to regulations a. through f. below.

2. Regulations

a. The parents have the right to request in writing, an independent educational evaluation at public expense if they disagree with the evaluation obtained by the public agency.

b. The public agency shall provide to parents, on request, information about where an independent evaluation at no cost to the parents may be obtained.

c. The public agency may initiate a due process hearing (under 300.506) to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

d. If an independent education evaluation is obtained, the results of the evaluation: (1) must be considered by the public agency with the respect to any decision concerning the educational program of the student with a disability; and, (2) may be presented as evidence at a hearing.

e. A hearing officer may request an independent educational evaluation as part of a hearing. If so, the evaluation must be conducted at no expense to the parent.

f. Whenever an independent educational evaluation is obtained at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be equivalent to that used by the public agency when it initiates an evaluation.

E. Prior Notice (300.504, 300.505)

1. Policy

Written prior notice which meets the requirements of 300.505 will be given to parents a reasonable time before the special education unit or Department of Public Instruction proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

2. Regulations

a. Written notices will include:

(1) a statement fully informing parents of all procedural safeguards available in 300.505 (a)(1),

(2) the action proposed or refused and an explanation of why the special education unit proposes or refuses to take action or any other factors relevant to the agency's proposal or refusal to take action, and a description of the options considered by the special education unit and reasons for rejecting those options,

(3) a description of each evaluation procedure, test, record, or report used as a basis for the proposal or refusal, and

(4) a description of any other factors which are relevant to the proposal or refusal.

b. The notice must be written in language understandable to the general public and in the parent's native language or other mode of communication unless clearly not feasible. It is not feasible to give parents written notice if the native language or other mode of communication of the parent is not a written language. In this case, the special education unit shall take steps to ensure that the notice is translated orally or by other means to the parent in his native language or other mode of communication, that the parent understands the content of the notice, and that there is written evidence that the above requirements have been met.

F. Parental Consent (300.504)

1. Policy

North Dakota Department of Public Instruction assures that special education units will be required to have written parental consent prior to the initiation of formal evaluation procedures, the disclosure of confidential information to anyone other than officials of participating agencies, or the use of information for purposes other than those previously specified to the parent and prior to the initial placement of a student in a special education program. Except for the parental consent for the preplacement evaluation and initial placement into a program, consent is not required as a condition of any benefit to the parent or child.

2. Regulations

a. Initial individual formal evaluation consisting of extensive testing or observation involving one or more specialists will require written prior notice and approval from the parents.

b. A due process hearing may be requested by the school if parents refuse or do not provide consent to evaluate or to be initially placed in special education. If the hearing officer upholds the school district pending an appeal to court, then

the student may be evaluated or placed in a special education program without parental consent.

G. Complaint Procedure

The Department of Public Instruction has a procedure to investigate and act on allegations made against the state, special education unit or school district relative to compliance with P.L. 101-476 and 102-119. The intent of this complaint procedures is to address matters of state, unit or district policy, procedure or practice rather than to determine factual disputes related to program needs of individual children. Mediation and due process hearing procedures are specifically designed to address individual fact disputes.

The complaint shall be in writing, must be signed, and must present the particular facts of the alleged violation of a requirement of a federal statute or regulations that apply to a program. The complaint may be filed by any individual, agency, group or organization. It shall be addressed to the Director of Special Education, Department of Public Instruction, 600 East Boulevard Avenue, Bismarck, ND 58505-0440.

The State Director of Special Education and/or his or her designee will thoroughly investigate the complaint and provide technical assistance to correct promptly any deficiencies or noncompliance revealed by the investigation. Within 20 working days of receipt of the complaint the investigator will interview by phone or in person the complainant and other parties involved and make a determination of whether an on-site investigation of the complaint is necessary. The process of identifying need for corrective action, providing technical assistance or otherwise assuring needed action and issuing a written final decision to all parties is to be completed within 60 days of the receipt of the complaint.

An extension of the time limit may be granted only if exceptional circumstances exist with respect to a particular complaint. The extension of the time limit will be discussed with the party initiating the complaint prior to extending the time line.

Any party who is not satisfied with the final decision may then request a review of the decision by the Secretary of Education, U.S. Department of Education, Washington, DC 20202.

At any time during the complaint process, a request for due process hearing procedures may be initiated.

H. Due Process and Review

Section 1. Purpose

The purpose of this regulation is to establish procedures by which the North Dakota Department of Public Instruction hereafter referred to as "the Department" will appoint hearing officers and operate the administrative hearing mandated by the requirements of Part B of the Individuals with Disabilities Education Act, (20 U.S.C. 1414-1415) or its implementing Regulation (34 C.F.R. 300).

Section 2. Scope

This regulation applies to the conduct of any Impartial Due Process Hearing thereof conducted by hearing officers appointed by the Department pursuant to Part B of the Individuals with Disabilities Education Act, (20 U.S.C. 1401 et. seq.) or its implementing Regulation (34 C.F.R. 300).

Section 3. Timelines

A. The Department of Public Instruction shall insure that no later than 45 days after the receipt of an Application for Request for Due Process Hearing, a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties in the dispute.

B. A hearing officer may grant specific extensions of time beyond the period set out in (A) of this section at the reasonable request of either party.

Section 4. Parent Initiation of Hearing

A parent of a child with a disability or the parent of a child whom the parent believes to have a disability may initiate a hearing as described in this regulation if:

A. the parent disagrees with a proposal by a special education unit or a proposal by another public agency operating an educational program to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or

B. a special education unit or another public agency operating an education program refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

The local school district, special education unit, or other public agency shall inform the parent of any free or low-cost legal and other relevant services in the area if (1) the parent requests the information, or (2) the parent or the agency initiates a hearing under this section.

Section 5. Initiation of Hearing by Others

A local school district, special education unit, or other public agency operating an educational program may initiate a hearing as described in this regulation if the parent of a child with a disability refuses consent before evaluation or before special education and related services are initially provided. Public agencies as well as parents are also permitted to initiate a hearing on "any of the matters" described in Section 300.504 (a)(1) and (2) which includes the proposal or refusal to initiate or change the identification, evaluation or placement of the child, or the provision of a free appropriate public education for the child.

Section 6. Filing and Procedure for a Due Process Hearing

Either party, the parent, the school district, or special education unit seeking to initiate a hearing pursuant to the regulations of the Department of Public Instruction, as the administrative agency conducting the hearing, shall follow the rules of procedure and notice of hearing as set forth in this document.

Section 7. Appointment of Hearing Officers

A. The Department shall maintain a register of hearing officers which contains the names of persons who do not have a personal or professional interest which would conflict with his or her objectivity in the hearing, are not employed by an agency involved with the care or education of the child, are not a school board official, and who are knowledgeable about the legal and educational issues which may arise under Part B of the Individuals with Disabilities Education Act in connection with the matters in dispute at a hearing initiated pursuant to this regulation. The Department of Public Instruction will utilize the Hearing Officers Division of the Attorney General's office, which will select a Hearing Officer to be appointed to the Department of Public Instruction.

B. The register shall include a summary of the qualifications of each person and shall ensure that prepared by the Department shall have successfully completed a training program for hearing officers approved by the Department.

C. The Department shall annually review the persons whose names appear on the register and shall remove from the register the names of any persons upon the recommendation of the Office of Administrative Hearings.

Section 8. Scheduling of Hearing and Mediation

A. The hearing requested by an application filed pursuant to Sections 4 or 5 of this document shall be scheduled at a time and place that is reasonably convenient to the parents and child involved.

B. During the period of time between the date of the filing of the Application for Request for Due Process Hearing under this regulation and the commencement of a hearing, the Department shall offer a mediator to mediate the dispute between the

parents and the special education unit. If mediation is accepted, the Department of Public Instruction will appoint a mediator. The mediation process is voluntary. The participation of the parties in mediation or the refusal of the parties to mediate will not delay or replace the due process procedures or timelines. In all cases the Department shall be available to provide any technical assistance to the mediator, parents, and special education unit and that is necessary to assist the mediator in bringing about a voluntary resolution of the matters in dispute.

C. In the event that the mediation efforts fail to result in a voluntary resolution by the parties of all of the matters in dispute, the mediator appointed by the Department of Public Instruction shall prepare and file a written report with the Department and the parties involved setting forth concisely the matters in actual controversy between the parties and the efforts undertaken to mediate the dispute.

Section 9. Scope of Hearing

A hearing conducted pursuant to this regulation shall be conducted for the purpose of deciding whether or not a child with a disability (or a child suspected of having a disability) has been denied one or more aspects of a free appropriate public education guaranteed under Part B of the Individuals with Disabilities Education Act.

Section 10. Access to Records and Information

Special education units shall provide parents who are parties to a hearing conducted pursuant to this regulation with full access to all school records pertaining to the child for whom the hearing is held, including the written record of any individual evaluation of the child conducted by the special education unit and any other school files and papers relevant to the matters in dispute.

Section 11. Conduct of Hearing

A. Preceding the commencement of the hearing, the hearing officer shall meet with the parties in order to attempt to arrive at a voluntary resolution of the matters in dispute.

B. In the event that a voluntary resolution of the dispute can not be achieved as a result of the meeting held pursuant to subsection (A) of this section, a hearing shall be conducted in accordance with established procedures. If the primary language of the parents is other than English or if a parent is either blind or deaf an interpreter or reader shall be provided. All hearings shall be conducted in locations fully accessible to persons in wheelchairs.

C. Any party to the hearing shall have the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the area of the child's needs.

D. Any party to the hearing has the right to present evidence, confront and cross-examine and compel witnesses and prohibit the introduction of any evidence at the hearing which has not been disclosed to that party at least five (5) days before the hearing.

E. If requested by the parents, the hearing conducted pursuant to this regulation shall be open to the public. At the request of parents, the child with a disability for whom the hearing is being held shall be permitted to attend the hearing.

F. The burden of proof as to the adequacy or appropriateness of a decision made by a special education unit regarding the identification, evaluation, placement of or provision of services to a child with a disability or to a child suspected of having a disability shall be on the special education unit.

G. A tape recording or other verbatim record of the hearing shall be made. The record shall remain under the control of the Department. Upon request, the parents and the special education unit shall have a right to obtain a copy of the record of the proceedings. Thereafter, additional copies may be obtained at a uniform charge set by the Department.

Section 12. Issuance of Hearing Decision

A. Following the close of the hearing, a decision which states concisely and explicitly the findings of fact, conclusions of law will be sent by certified mail to the parties involved in the hearing. The decision of the hearing officer is final unless either party appeals the decision. As appropriate, the hearing decision will be written in English and in the primary language of the child's home if other than English, and, where appropriate, will be transcribed in Braille or tape-recorded for parents who are visually impaired or blind.

B. Both parties will be notified in writing that any party who is aggrieved by the hearing decision may seek relief through civil action in any state or federal court.

C. The hearing officer shall send the written findings of fact and decision to the Department of Public Instruction.

D. The Department of Public Instruction shall transmit the findings of fact and decision, after deleting any personally identifiable information, to the State Advisory Panel and will make the findings and decision available to the general public.

Section 13. Status of Child During Procedures

A. During the pendency of any administrative or judicial proceeding pursuant to this regulation, unless the parties agree otherwise, the child for whom the administrative or judicial proceeding is held shall remain in his/her present placement. While the placement may not be changed, this does not preclude the special education unit from using its normal procedures for dealing with a child who is endangering him/herself or others.

B. If the complaint involves an application for initial admission of a child to a public school, the child, with the consent of the parents, shall be placed in the public school program until the completion of all administrative and judicial proceedings.

Section 14. Definition and Enforcement Rights of the Developmental Disabled

A. The term "developmental disability" means a severe, chronic disability of a person which--

(1) is attributable to a mental or physical impairment or combination of mental and physical impairments;
(2) is manifested before the person attains age twenty-one;
(3) is likely to continue indefinitely;
(4) results in substantial functional limitations in three or more of the following areas of major life activity; (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency; and
(5) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

B. North Dakota Century Code 25-01.2-17. Enforcement of Rights.

Every developmentally disabled person shall be entitled to enforce any of the rights guaranteed by civil action or any other remedy available by common law or statute. In any proceeding to enforce these rights the courts may, in its discretion, award reasonable attorney's fees and costs to a successful plaintiff. A developmentally disabled person who is successful in an administrative proceeding may also be awarded reasonable attorney's fees and costs. Any award of attorneys' fees and costs shall be in addition to any actual or punitive damage to which a person may be entitled.

Section 15. North Dakota Century Code 15-59-10. Enforcement of right to education - Attorneys' fees.

Each parent or guardian of a handicapped child as defined in subsection 3 of section 15-59-01, or a handicapped adult between the ages of eighteen and twenty-one is entitled to enforce that handicapped child's or handicapped adult's right to an education guaranteed by state and federal law, through an administrative proceeding, civil action, or other remedy available by common law or statute. In any administrative or judicial proceeding to enforce that right, the court may, in its discretion, award reasonable attorneys' fees and costs to a parent, guardian, or handicapped adult who prevails in that proceeding. The parent or guardian of a child with disabilities or the adult with disabilities is encouraged to submit a written request to the appropriate school administrator or director of special education regarding the relief sought prior to a proceeding.

I. Surrogate Parents (300.514)

1. Policy

The North Dakota Department of Public Instruction assures that the child's rights are protected whenever the parents or guardian of the child are not known, are unavailable, or the child is a ward of the state through the assignment of an individual to act as a surrogate for the parent or guardian. "Ward of the state" is defined as "a person for whom a guardian has been appointed" (NDCC 30.1-26-01 (5-101)).

Each public agency shall establish a procedure as required by the Superintendent of Public Instruction for determining whether a child under the age of 21 years needs a surrogate parent and for assigning such a surrogate parent for the purpose of special education and related services.

2. Regulations

a. The surrogate has no other vested interest that would conflict with his/her primary allegiance to the child he/she represents.

b. The surrogate has knowledge and skills to represent the child.

c. The surrogate is not an employee of any state or local governmental agency that is involved in the education or care of the child. A person who otherwise qualifies to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

d. The surrogate will represent the child in all matters relating to identification, evaluation, and educational placement, and the provision of a free appropriate public education.

e. The surrogate will ensure that an appropriate public education is available to the student at no cost to the student, parent, or surrogate parent.

J. Monitoring

1. The Department of Public Instruction will assure that each special education unit application for state special education reimbursement includes the procedural safeguards as stated in state policy.

2. All special education units will be monitored through the special education improvement study process on a five-year cycle.

K. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION (20 U.S.C. 1412(2)(D); 34 CFR 300.129 and 300.560-300.576)

A. Policy

The North Dakota Department of Public Instruction affirms the policy that requires continuous procedures to identify children with disabilities and to publish a statewide notice in newspapers or other media which informs parents of the requirements regarding identification of children with disabilities.

Notice to Parents (300.561)

The notice includes:

1. information that the notice is provided in English. However, if the parents' native language is other than English, the unit will take steps to ensure that the notice is provided in the parents' native language.

2. a description of the children on whom confidential information is kept, and the types of information sought, the methods used in gathering the information, including sources from whom information is gathered, and the uses made of the information.

3. a description of how this information is kept and protected, and the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information.

4. a description of all the rights of parents and children regarding this information, under Section 438 of the General Education Provisions and Part 99 of this title.

Before any major identification, location, or evaluation activity, the notice is published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

B. Regulations

Access Rights (300.562)

1. Each participating agency shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than five (5) working days after the request has been made.

2. The parents' right to inspect and review education records related to the identification, evaluation and placement of a child and the provision of FAPE under this section includes:

   a. the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

   b. the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

   c. the right to have a representative of the parent inspect and review the records.

3. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

Records of Parties Obtaining Access (300.563)

4. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency) including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Records of More than One Child (300.564)

5. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

List of Types and Location of Information (300.565)

6. Each participating agency shall provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency.

Fees (300.566)

7. A participating education agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. A participating agency may not charge a fee to search for or to retrieve information under this policy.

Amendment of Records (300.567)

8. If a parent feels that information in education records is inaccurate, misleading, or violates the privacy or other rights of the child, he/she may request that the participating agency amend the records.

9. If the agency receives a request to amend records, the agency shall decide:
   a. to amend the information in accordance with the request within a reasonable period of time; or

   b. to refuse to amend the information and inform the parent of refusal.

10. If the agency refuses to amend the information, the agency must advise the parent of the refusal and his/her hearing rights.

Opportunity for a Hearing (300.568)

11. The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

Result of Hearing (300.569)

12. If, as a result of the hearing, the agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

13. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

14. Any explanation placed in the records of the child under this section must:

   a. be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

   b. if the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

Hearing Procedures (300.570)

15. A hearing held under this policy must be conducted according to the procedures under section 99.22 of FERPA.

Consent (300.571)

16. Parental consent must be obtained before personally identifiable information is:

   a. disclosed to anyone other than officials of participating agencies collecting or using the information under this policy; and

   b. used for any purpose other than meeting a requirement under this policy.

17. An educational agency or institution subject to Part 99 of FERPA and IDEA-B, may not release information from education records to participating agencies without parental consent unless authorized to do so under the above requirements.

18. If a parent refuses to provide consent under this policy, the Department of Public Instruction shall follow the impartial due process hearing procedures as outlined in the State Plan, Part B, for Fiscal Years 1993-1995.

Safeguards (300.572)

19. Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

20. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

21. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under 300.129 and 34 CFR Part 99 (FERPA). Each public agency must annually provide training to new staff members and review policies with all others.

22. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Destruction of Information (300.573)

23. The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

24. The information which is no longer needed must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Children's Rights (Transfer of Rights) (300.574)

25. Students on whom personally identifiable information is collected, maintained, or used under this policy are afforded rights of privacy similar to those afforded to parents previous to the student's 18th birthday, taking into consideration the age of the child and type or severity of the disability. The parental rights are transferred to the student at age 18.

C. Enforcement (300.575)

1. The policy regarding confidentiality of personally identifiable information is included in the Department of Public Instruction's, *Guide I (revised) - Laws, Policies, and Regulations for Special Education for Exceptional Students.* Each special education director receives a copy of the guidelines and is responsible for assuring to the Department of Public Instruction that his/her staff follows the regulations.

2. The Department of Public Instruction assures that each special education unit application under P.L. 101-476 and 102-119 funding must include the confidentiality of personally identifiable information policy and procedures.

3. Through its on-site monitoring procedures, the Department of Public Instruction verifies the implementation of each special education unit's policies and procedures regarding confidentiality of personally identifiable information. Approximately twenty percent of the special education unit's are monitored during each of the five years of the monitoring cycle.

4. If compliance is not achieved, the NDDPI will suspend federal financial assistance until the situation is clarified. A request for return of funds will not be made without first affording the unit a review after reasonable notice has been given and the unit has had an opportunity to present information and data. The NDDPI will conduct a hearing at which time the unit will have an opportunity to present

information. The NDDPI will continue funding when it has documented that the unit is following policy and procedures consistent with Section 300.560-300.574 of Title 34 of the Code of Federal Regulations Part 300.

I. LEAST RESTRICTIVE ENVIRONMENT (20 U.S.C. 1412(5)(B); 34 CFR 300.132 and 300.500-300.556)

The document, *Guidelines for the State Recommended Individual Education Plan (IEP)* (Appendix C), addresses policies and procedures relating to least restrictive environment (LRE).

A. Policy

1. The Department of Public Instruction will assure that to the maximum extent appropriate, children with disabilities, including students in public or private institution or other care facilities and those of preschool age, are educated with children who do not have disabilities, and that enrollment in special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily.

2. The public agency will ensure that a continuum of alternative placements described in 300.551(b) is available to meet the needs of children with disabilities for special education and related services.

B. Regulations

The public agency's decision-making process regarding placement must consider the following.

1. Placement of a child with a disability must be made in the regular educational environment of the public school which the child would otherwise attend if he or she did not have a disability unless the nature or severity of the child's disability is such that appropriate educational goals and objectives for that child (as contained in the child's IEP) cannot or could not be achieved in a regular classroom-based program even with the use of supplementary aids and services.

Continuum of Alternative Placements (300.551)

2. If placement is to be made outside of the regular education environment, it must be made in an alternative instructional setting or arrangement selected from a continuum of such settings/arrangements (arrayed from least restrictive to most restrictive) that meets the unique needs of the student. Types of education alternatives are:

   * regular class: receiving special education and related services less than 21 percent of the school day
   * resource room: receiving special education and related services 60 percent or less and at least 21 percent of the school day
   * separate class: receiving special education and related services more than 60 percent of the school day
   * public separate school facility: receiving special education and related services more than 50 percent of the school day in separate facilities
   * private separate school facility: receiving special education and related services more than 50 percent of the school day in private separate school facilities
   * public residential facility: receiving special education and related services more than 50 percent of the school day in a public residential facility
   * private residential facility: receiving special education and related services more than 50 percent of the school day in a private residential facility
   * homebound/hospital: receiving education in hospital or homebound program

The continuum must make provision for supplementary services to be provided in conjunction with regular class placement.

The selection of a particular alternative setting or arrangement is to be made by determining the least restrictive setting/arrangement in which the appropriate educational goals for the child could be achieved.

Placements (300.552)

3. Educational placement decisions must be made (a) at least annually; (b) by a group of persons (including persons knowledgeable about the child, the meaning of the evaluation data and the placement alternatives) who consider carefully broad-based, documented information about the child; (c) based on the child's IEP; and (d) as close as possible to the child's home.

4. The public agency must insure that the various placements included under 300.551 are available to the extent necessary to implement the IEP for each child with a disability.

5. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school which he or she would attend if he or she did not have a disability.

6. Consideration must be given to any potential harmful effect on the child or on the quality of services which he or she needs.

Nonacademic Settings (300.553)

7. Regardless of the core placement alternative selected, a child with a disability must be educated with, and allowed to interact with, in both academic and nonacademic settings, children who do not have disabilities to the maximum extent appropriate to the needs of the child with a disability.

   To assure that providing or arranging for nonacademic and extracurricular services and activities is addressed, the student's individualized education program must respond to a specific question regarding the arrangements which will be made so that each child with a disability participates with children who do not have disabilities to the maximum extent appropriate to the needs of the child.

Children in Public or Private Institutions (300.554)

8. Private and public institutions assure the Department of Public Instruction of their implementation of the requirements in 300.550. In addition, special education units are by state statute responsible for the children with disabilities served in the special education unit or any child placed out of unit whose residence is within their unit (unit of residence) and therefore must also assure that the requirements of 300.550 are being met.

C. Procedures

Guidelines for the State Recommended Individual Education Plan (IEP) directs IEP teams to discuss the following when considering and justifying service options:

1. sites and settings for special education services that have been previously tried, where the student now receives service, and what sites and services are presently recommended to meet the student's needs.

2. sites and settings that were considered in current or previous staffings but were not chosen, and why these placements were not chosen.

3. supports used to facilitate previous placements, what considerations resulted in discontinuing these placements, and what efforts are planned to prepare the student to return to a less restrictive environment; and the special education interventions that have been tried in previous placements and the progress the student has or has not made with these interventions.

4. student learning characteristics as they relate to the placements considered: rate of skill acquisition and overall functioning level; need for social interaction and leisure skills training; need for limited environmental distractions; and need for restricted space within a building (ability to operate without definite boundaries or within an unstructured or less structured environment).

5. programmatic components in determining regular education options for the student: content of regular classroom; structure of the regular classroom; balance of regular education content areas with functional, social, and community skills

training; and supports needed to facilitate social, physical, or academic integration/inclusion.

6. placement location chosen as it relates to the student's specific identified needs.

7. potential harmful effects and quality of services issues. A situation does not have a harmful effect if actions taken by a school official can prevent or diminish the effect (e.g., a principal disciplining peers who do not have disabilities who constantly tease or taunt a student with disabilities). Considerations may include: behavioral characteristics (effect of student behaviors on the learning of other students within his or her classroom, neighboring classrooms, and/or school building); potential damaging attitudes of nondisabled peers, staff, or others who do not have disabilities; special health or safety needs; and miscellaneous factors.

D. Technical Assistance and Training Activities

1. LRE considerations are a major part of the process described in the Department of Public Instruction document *Guidelines for the State Recommended Individual Education Plan*. This document, developed in 1991, served as the basis for statewide training for all special education directors and personnel, college and university personnel, the state office of Protection and Advocacy staff, all case managers for persons with developmental disabilities, and staff of a parent information and resource center. Public and private schools as well as state operated programs in North Dakota were included.

   Training material describing the IEP process (including LRE issues) will be developed using videotapes and related items from statewide IEP training. These materials will be available to special education units, university trainers, agency personnel and others.

2. Inservice training has been and continues to be conducted by public agencies to ensure that teachers and administrators are informed of their responsibilities for implementing 300.550. The Department of Public Instruction provides technical assistance and training to public agencies in implementing 300.550 by arranging for on-site visits, inservice, dissemination of information, monitoring, and periodic reports.

E. Monitoring

1. Each institution, agency, and public or private school will submit a program plan that will address the LRE issue; that is, alternative settings that are available in the special education program as listed in B.2.

2. In all special education unit monitoring, considerable time has been spent reviewing procedures for placement and emphasizing to staff that LRE must be considered in placement and in annual review of the IEP. If there is evidence that a public agency makes placements inconsistent with 300.550, the Department of Public Instruction will review the public agency's justification for its actions, and assist in planning and implementing any necessary corrective action.

3. A semiannual data report describing alternatives available in the special education unit's program is sent to the Department of Public Instruction. Implementation of the LRE procedures are monitored in each public agency by the Department of Public Instruction every five years.

4. Data required in Table 3 of the Annual Data Report has been submitted previously as directed.

III. PROTECTION IN EVALUATION PROCEDURES (20 U.S.C. 1412(5)(C); 34 CFR 300.133 and 300.530-300.534, and 300.540-300.543)

A. Policy

The Department of Public Instruction assures the requirements of 300.530-300.534 and 300.540-300.543 are established and implemented by each public agency. Any testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities, including a child with specific learning

disabilities will be selected and administered so as not to be racially or culturally discriminatory.

B. Regulations

Preplacement Evaluation (300.531)

1. Before any action is taken with respect to the initial placement of a child with a disability in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of 300.532.

Assessment Plan and Summary Report

2. Prior to conducting evaluations, the public agency will develop an assessment plan for each child suspected of having a disability. At the conclusion of an evaluation, the public agency will prepare a written integrated summary reports of assessment results for each child referred for an evaluation.

Evaluation Procedures (300.532)

3. State and local educational agencies shall insure, at a minimum, that:

   a. tests and other evaluation materials: (1) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; (2) have been validated for the specific purpose for which they are used; and (3) are administered by trained personnel in conformance with the instructions provided by their producer;

   b. tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

   c. tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure);

   d. no single procedure is used as the sole criterion for determining an appropriate educational program for a child;

   e. the evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability; and

   f. the child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, *general intelligence, academic performance, communicative status, and* motor abilities.

Placement Procedures (300.533)

4. In interpreting evaluation data and in making placement decisions, each public agency shall:

   a. draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

   b. insure that information obtained from all of these sources is documented and carefully considered;

   c. insure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

d. insure that the placement decision is made in conformity with the least restrictive environment rules in 300.550-300.554.

5. If a determination is made that a child has a disability, an individualized education program must be developed for the child in accordance with 300.340-300.349 of Subpart C.

Reevaluation (300.534)

6. The Department of Public Instruction and each local educational agency shall insure:

   a. that the IEP of each child with a disability is reviewed in accordance with 300.340-300.349 of Subpart C, and

   b. that an evaluation of the child, based on procedures which meet the requirements under 300.532, is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

Additional Team Members for Evaluating Specific Learning Disabilities (300.540)

7. In evaluating a child suspected of having a specific learning disability, in addition to the requirements of 300.532, each public agency shall include on the multidisciplinary evaluation team:

   a. (1) the child's regular teacher; or (2) if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or (3) for a child of less than school age, an individual deemed appropriate by the IEP team to teach a child of his or her age as referred to in IEP Guidelines; and

   b. at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

Criteria for Determining the Existence of a Specific Learning Disability (300.541)

8. A team may determine that a child has a specific learning disability if:

   a. the child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph b of this section, when provided with learning experiences appropriate for the child's age and ability levels; and

   b. the team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

      (i) oral expression;
      (ii) listening comprehension;
      (iii) written expression;
      (iv) basic reading skill;
      (v) reading comprehension;
      (vi) mathematics calculation; or
      (vii) mathematics reasoning.

9. The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of: a) a visual, hearing, or motor disability; b) mental retardation; c) emotional disturbance; or d) environmental, cultural or economic disadvantage.

Observation (300.542)

10. At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

11. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

Written Report (300.543)

12. The team shall prepare a written report of the results of the evaluation.

13. The written report must include a statement of:

    a. whether the child has a specific learning disability;

    b. the basis for making the determination;

    c. the relevant behavior noted during the observation of the child;

    d. the relationship of that behavior to the child's academic functioning;

    e. the educationally relevant medical findings, if any;

    f. whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and

    g. the determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

14. Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

C. Monitoring

1. Each agency engaged in evaluation of children will file annually with the Department of Public Instruction an assurance of adherence to the protection in evaluation policy. Each special education unit submitting a program plan under Part B will be required to describe in detail their protection in evaluation policy and procedures.

2. Each agency or institution will have records available to the Department of Public Instruction for review at the agency or institution site.

3. One-fifth of the special education units will be evaluated annually relative to their testing and evaluation policies and procedures as a part of the special education unit monitoring activities.

IX. RESPONSIBILITY OF STATE EDUCATIONAL AGENCY (20 U.S.C. 1412(6); 34 CFR 300.134 and 300.600)

A. Responsibility for All Educational Programs (300.600)

1. The Department of Public Instruction assures that all educational programs within the state, including those programs administered by another agency, are adhering to the requirements of Public Law 101-476 and 102-119.

2. The Department of Public Instruction assures that each educational program for children with disabilities is under the general supervision of persons responsible for these education programs in the Department.

3. All educational programs for the children with disabilities meet educational standards established by the Department of Public Instruction.

4. This part may not be construed to limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of a free appropriate public education for children with disabilities in the State.

5. The state statutes that address this issue are NDCC 15-59-05, NDCC 15-59-05.2, and 15-59-06.1

15-59-05. Powers and duties of the director of special education. The superintendent of public instruction shall establish general state policy within the provisions of this chapter and shall endeavor to ensure a cooperative special education program coordinating all available services. He shall cooperate with private agencies, soliciting their advice and cooperation in the establishment of

policy and in the coordination and development of special education programs. In accordance with the provisions of this chapter, the director of special education shall prescribe rules and regulations for the special education of exceptional children and for the administration of this chapter. He shall assist the school districts of the state in the inauguration, administration, and development of special education programs, and he shall establish standards and provide for the approval of certification of schools, teachers, facilities, and equipment.

15-59-05.2. Interagency cooperative agreements for the provision of education related services to handicapped students--report by department of public instruction. The department of public instruction shall cooperatively develop and implement interagency agreements with appropriate public and private agencies, including the department of corrections and rehabilitation, the state department of human services, and the state department of health and consolidated laboratories, for purposes of maximizing available state resources in fulfilling the educational-related service requirements of Public Law 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended.

15-59-06.1. Enforcement of special education programs in institutions by superintendent of public instruction. The superintendent of public instruction shall enforce educational standards for all special education programs in institutions wholly or partly supported by the state which are not supervised by public school authorities. Such standards shall be similar to regulations and standards established for the conduct of special education classes of the public schools in the state.

6. Applicable interagency agreements relating to responsibility for all educational programs are attached as Appendix H.

B. Department of Public Instruction Monitoring Procedures (34 CFR 76.101(e)(3); 34 CFR 300.128(a)(5), 300.130(b)(2), 300.402(a), 300.556)

1. Policy

The North Dakota Department of Public Instruction is responsible for monitoring special education units, state institutions, private schools, and other agencies' programs that have responsibility for the education of children with disabilities, and the enforcement of any obligations imposed on those agencies, institutions and organizations under law, and to correct any deficiencies in program operations that are identified through monitoring.

2. Procedures

North Dakota statute requires the setting of standards which will apply to school districts receiving state special education funding. Public Laws 101-476 and 102-119 require adherence to specific federal regulations which must be followed to assure that free and appropriate programs are made available to all children with disabilities. Monitoring procedures are planned to not only determine the degree of compliance with state and federal regulations in special education, but also to assist in program improvement. The monitoring process includes the evaluation of: (a) the effectiveness of procedures undertaken to identify, locate and evaluate children with disabilities; (b) implementation of IEPs; (c) compliance of procedures for placing children with disabilities in private schools, and placement of children with disabilities to assure the requirements of 300.550-300.555 are met. See Appendix D for monitoring documents. Each special education unit and state operated program participates in a formal program monitoring every five years. Through interagency agreements, the same system is used with other public and private agencies providing services to children with disabilities. The process is also used to review current policies and practices related to the state and federal requirements.

The formal monitoring system includes three areas.

a. Review of IDEA-B application, policy and procedures, and an analysis of practices

(1) The unit's three year application is reviewed to insure inclusion of all required assurances, policies, and procedures. Components that are

missing or inconsistent with regulations are revised and resubmitted before application approval is granted.

(2) During regularly scheduled monitoring in a unit (once every five years):

- the unit's policy and procedures handbook is reviewed to determine consistency with stated policies and the IDEA-B application;
- a comprehensive review of a sample of student files is accomplished to determine compliance with regulations; and
- interviews are conducted with the special education director and coordinators, private and public school principals, general educators, special education personnel, evaluators, related services personnel, and students. A sample of parents is contacted by mail or telephone.

b. Monitoring Report

The Department of Public Instruction prepares a written report based on application review, policy and procedure handbook review, and on-site monitoring information. The report identifies areas that are compliance issues, and any needs for technical assistance from the state, office staff, and makes recommendations and suggestions for program improvement. Required corrective actions to be taken by the special education unit are included. The unit must respond within 60 days with evidence that corrective action has been taken, or with a plan including a timeline for carrying out corrective actions.

c. Monitoring Follow-Up

A Department of Public Instruction representative evaluates individual special education unit responses to the monitoring report and assures that corrective actions have been completed. If the special education unit is in compliance, but is weak in some areas, the Department will provide or arrange for technical assistance to the unit. If not in compliance, the Department representative will confer with the State Director of Special Education regarding the seriousness of the noncompliance and the penalty to be considered.

d. Summary of Monitoring Findings

Information is collected from the written monitoring responses annually and analyzed to identify statewide areas of need. The information is used to establish the state's inservice training priorities and to document the yearly overview of program development in the state.

X. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (20 U.S.C. 1413(a)(3); 34 CFR 300.139 and 300.380-300.387)

A. Policy

The North Dakota Department of Public Instruction assures that special education personnel who work with students with disabilities under Public Laws 101-476 and 102-119, will be qualified in accordance with the highest state standards.

B. Input and Implementation

The North Dakota Department of Public Instruction provides extensive opportunity for formal and informal participation and for review of the Comprehensive System of Personnel Development (CSPD) by a variety of agencies, groups, organizations, institutions, and individuals. The Department of Public Instruction annually solicits input and collects data to update the CSPD plan.

1. IDEA-B Advisory Committee

The membership of the state IDEA-B Advisory Committee includes school administrators (regular and special education), parents, persons with disabilities, special educators, institutions of higher education, classroom teachers, private schools, special education board members, and agency personnel. The committee reviews statewide needs, personnel recruitment, preservice and inservice education for teachers, reviews any proposed changes

in credential standards, and evaluates the CSPD and the North Dakota State Plan. Additional representatives from the college/university special education training programs are included when personnel preparation and other CSPD issues are discussed.

The IDEA-B Advisory Committee meets up to four times each year.

2. CSPD Advisory Subcommittee

The IDEA-B Committee has established a subcommittee to address the Comprehensive System of Personnel Development. The Committee membership is included in Appendix G, and is made up of two members of the IDEA-B Committee, university representatives, special educators, other agency representatives, general educators, and parents. The CSPD Subcommittee is responsible to review personnel development issues and make recommendations to the IDEA-B Committee. A statewide inservice needs assessment was conducted in November-December, 1991. These results were used in establishing priorities for the CSPD section of the state plan that follows. The Subcommittee has also reviewed personnel supply and demand issues in North Dakota. The Subcommittee is establishing a strategic plan for the Comprehensive System of Personnel Development. It is estimated that the plan will be completed by September 1992, and will include priorities for study over the years 1993-95.

3. North Dakota Special Education Study Council (NDSEC)

The NDSEC is composed of the directors of special education in the state including the state institutions and the private school. The NDSEC provides input on local program trends, status of current personnel and future recruitment needs, preservice and inservice needs, proposed changes in special education credential standards, and the IDEA-B State Plan.

4. Special Education Unit Applications

The 31 special education administrative units submit annual program plans to the Department of Public Instruction. Each application includes a CSPD section which describes the local needs assessment, long range and short range goals, and the yearly training objectives and activities. In addition, special education unit personnel have an opportunity to review the IDEA-B State Plan containing the CSPD plan.

5. Others

The IDEA-B State Plan which includes the CSPD is distributed to other agencies, institutions, associations, parent groups, and interested persons. Opportunity for input is provided through public hearings or by written comments as described in this document.

6. Responsibilities for CSPD Development

a. SEA Responsibilities

(1) Statewide needs assessment. Priorities for professional development were determined from these data by the CSPD Advisory Subcommittee. Identification of preservice training priorities and related planning will be carried out by the Subcommittee.

(2) Implementation of statewide inservice training to address needs, and implementation of preservice plans.

(3) Coordination of information from special education unit and the Department of Public Instruction needs assessments and monitoring information with institutions of higher education.

(4) Evaluation of inservice plan. Results will be reviewed by the CSPD Advisory Subcommittee. Recommendations will become the basis of future planning.

(5) Establishment of statewide data management system for special education personnel supply and demand information.

b. Special Education Unit Responsibilities

(1) Establishment of inservice planning committee.

(2) Determination of local inservice needs.

(3) Implementation of inservice plans.

(4) Evaluation of inservice plan.

(5) Communication of inservice and preservice needs with institutions of higher education.

(6) Provide local data to the Department of Public Instruction regarding current and anticipated future personnel needs.

c. Institutions of Higher Education (IHE) Responsibilities:

(1) Assessment of the Department of Public Instruction and special education unit inservice and preservice needs related to education of students with disabilities.

(2) Implementation of inservice by assisting special education units and the Department of Public Instruction with inservice.

(3) Plan cooperatively with special education units and the Department of Public Instruction to meet preservice needs.

(4) Provide preservice data to the Department of Public Instruction regarding personnel entering and completing preservice training programs, placements within the state, and recruitment activities.

C. Needs Assessment Process

Data used to develop the North Dakota Comprehensive System of Personnel Development are derived from many sources. The needs assessment procedure is ongoing. It typically includes aspects of both formal and informal systems of data collection and includes many sources as described in the following paragraphs.

1. Special Education Unit Project Applications

Each special education unit submits a project application that describes the local needs assessment and results and the local CSPD plan. In addition, each special education unit establishes annual CSPD priorities. The Department of Public Instruction provides information to local units regarding trends and training priorities based on data collected from a variety of sources (e.g. needs assessments, special studies, research activities, trend information from local unit compliance monitoring).

2. Annual Reports by Special Education Units

Two kinds of annual reports are collected and data are analyzed by the Department of Public Instruction. The analysis of these reports includes informal and formal trend analyses (e.g. increases in personnel numbers within specific areas), targeted review of specific areas with follow-up contacts to local administrative personnel for input on discrepancies or incongruities, and establishment of special study groups to analyze and interpret information and/or collect additional data.

3. Special Education Unit Monitoring Reports

At the close of each year, the areas of noncompliance listed in the monitoring reports are summarized. The information is representative of the entire state's needs and is extremely valuable in describing the statewide status of Public Law 101-476 compliance and major programming issues. Requests for technical assistance of the Department of Public Instruction as well as informal observations and interviews during the monitoring process with staff members, administrators, and parents assist in documenting the level of knowledge and skill development in the field.

4. State Level Personnel

A considerable amount of time is spent assessing the "status of special education" by special education personnel in the Department of Public Instruction. There is ongoing dialogue with the elementary, secondary, and curriculum division staff members concerning the relationship between and the responsibilities of regular education and special education. Interagency agreements also help to identify areas of concerns by providing frequent opportunities to discuss coordination and cooperation among program areas. Inservice training conducted by the state office and subsequent evaluations completed by participants provides substantial input regarding inservice needs in North Dakota.

5. Input and data obtained through participation of individuals and groups cited in C1-C4 above are integrated into an updated CSPD plan.

D. Inservice

1. Information regarding inservice training needs identified through the sources listed under section C is reviewed and organized into priority training areas by the CSPD Subcommittee. Specific plans are prepared for priority areas and reviewed by the subcommittee. The finalized plans are carried out by the Department of Public Instruction in collaboration with IHEs, local special education units, and Mountain Plains Regional Resource Center. In some cases, training activities may be contracted to other agencies.

   Table 1 presents the results of the evaluation of data collated through the needs assessment process.

2. Timelines

   Objectives for inservice training priority areas are reviewed on an annual basis in light of evaluation data, input from other sources (under Section C above), and long range plans. Timelines are revised based on yearly input.

3. Major responsibility for inservice training for special education personnel, regular classroom teachers, and administrators is placed at the local level. The special education unit must conduct a local needs assessment and develop an inservice plan that is included in the special education unit IDEA-B application. Up to 25 percent of the Part B flow through funding (20% set aside and 5% administrative) may be used for implementation of the inservice plan. Local inservice plans are addressing the following issues:

   -- team efforts to assess students, plan and implement programs
   -- obligations of teachers' roles
   -- roles and responsibility of various agencies
   -- relationship of the home and the school
   -- vocational education and the student with disabilities
      -- designing and adapting curriculum to meet the needs of children with learning disabilities
      -- identifying children with emotional disturbance and planning appropriate programs
   -- understanding the importance of procedural safeguards
   -- utilizing building resource teams
   -- transition planning

4. Workshop leaders will be identified to assist the Department of Public Instruction and special education unit staff members in planning and implementing the inservice activities. In-state personnel such as university and college staff members and the Department of Public Instruction staff members will be utilized as presenters when appropriate. Some of the training objectives will require contracting with other regional and national leaders in the specific field.

5. Funding for the inservice plan will be out of the Department of Public Instruction IDEA-B administrative and set aside monies. Up to 25% of the special education unit's Part B grant may be used for inservice activities.

Table 1. Inservice Priority Areas

PRIORITY	CONTENTS/OBJECTIVES	TARGET AUDIENCE	TIMELINE
A. Collaboration between Special and General Education	Demonstration Sites for Building Level Support Teams	General Educators, Building Administrators	Start-up: Fall, 1992; Ongoing thereafter
	Principal's Role in Special Education (National Academy on the Principalship in Special Education)	Administrators, Higher Education Programs in Education Administration MD LEAD Center	Start-up: Fall, 1992; Ongoing thereafter
	The General Educator's Role in the IEP Process (training module)	General Educators, Administrators	Completed by 12/92; Disseminated through 5/93; Ongoing use thereafter
	School Board Members: Knowledge Base Regarding Special Education (training module)	School Board Members, Superintendents	Completed by 5/93; Disseminated by 9/93; Ongoing use
B. Interagency Collaboration	Guidelines Development and Training: Medically Fragile/Technology Dependent Students	Physicians, Health Care Providers, Educators, Administrators, Parents of Children with Special Care Needs, Related Services Personnel, Paraprofessionals	Guidelines Completed by 12/92; Dissemination and Training through 10/94
	Education's Role in the Comprehensive System of Care for Seriously Emotionally Disturbed Students	Educators, Administrators, Parents of SED Students, Physicians, Health Care Providers, Psychologists, Related Services Personnel, Mental Health Personnel, Law Enforcement Personnel, Interagency Councils, Children's Services Coordinating Council	Comprehensive Services System Description Completed by 5/93; Dissemination and Training through 5/95
	Interagency Child Find Project	Medical Providers, Health Care Agencies, Human Services Agencies, Day Care Programs, Head Start Programs, Interagency Teams of MD Early Childhood Tracking System	Dissemination Plan and Materials Completed by 8/92; Training and Dissemination Ongoing Thereafter
C. Transition	Transition Training a. Procedures and Policies b. Roles of Agencies, Families, Students c. How to be your own Case Manager d. Postsecondary Options, Agency Services e. Including Transition Planning in the IEP Process f. Follow-along Studies and Evaluation of Transitional Procedures g. Transition Planning for Specific Populations (Native Americans, Individuals with Severe Disabilities) h. Within School Transitions i. Employment and Independent Living Opportunities	Regional Transition Governing Boards, Local Transition Advisory Committees, State Offices in Developmental Disabilities, Vocational Rehabilitation, Vocational Education, Public Instruction, Job Service, Labor, Educators, Administrators, Parents, Students, Advocates, Business/Industry, Institutions of Higher Education, Other agencies as appropriate	Strategic Plan Completed by 5/93; Training Timeline Established by 5/93; Training Ongoing Thereafter
D. Identification and Assessment	Utilizing "Expert Systems" in the Assessment of Students Suspected of Having Serious Emotional Disturbance or Specific Learning Disabilities	Special Educators, Administrators, School Psychologists, Parents, Higher Education Training Programs in Special Education and Psychology	Development of Systems by 5/93; Dissemination and Training 8/93 - 12/94
	Assessment Guidelines Revisions and Related Training (assessment planning, summary reporting, nondiscriminatory procedures); Role of the Diagnostic, Consulting Teacher	Special Educators, Special Education Administrators, Related Services Personnel, Higher Education Training Programs in Special Education, Psychology, Related Services areas, Administrators, General Educators	Dissemination and Training Start-up 9/93 and Ongoing Thereafter

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Inservice Priority Areas (Cont.)

PRIORITY	CONTENTS/OBJECTIVES	TARGET AUDIENCE	TIMELINE
E. Instructional Strategies	Integration Strategies for General Educators a. Behavior Modification Strategies b. Modifying and Differentiating Classroom Curricula c. Service Delivery Options d. Self-confidence and Stress Management for Children e. Planning and Implementing Instructional Strategies f. Using the IEP Process	Building Level Support Teams, Administrators, General Educators, Special Educators, Parents, Related Services Personnel, Higher Education Training Programs for General and Special Educators, Administrators, and Related Services Personnel	Strategic Plan and Training Timeline Completed by 5/93; Training Ongoing Thereafter
	Curricular Adaptations/Modifications Chapter to Accompany State Curriculum Guides	General Educators, Administrators, Special Educators	Chapter Completed by 5/93 Dissemination and Training Ongoing Thereafter
F. Awareness/Knowledge Needs	F-1 Section 504 of the Rehabilitation Act of 1973: Development of Policies and Procedures and Training Module	Building Level Support Teams, Other General Educators, Special Educators, Administrators, Parents, Law Enforcement Personnel, Physicians, Psychologists, Institutions of Higher Education	Policies and Procedures Completed by 5/93; Dissemination and Training Ongoing Thereafter
	F-2 Attention Deficit Disorder: Development of Policies and Procedures and Training Modules	Building Level Support Teams, Other General Educators, Special Educators, Administrators, Parents, Law Enforcement Personnel, Physicians, Psychologists, Institutions of Higher Education	Policies and Procedures Completed by 5/93; Dissemination and Training Ongoing Thereafter
	F-3 Fetal Alcohol Syndrome: Development of Information Packets, Procedures and Training Modules	Special and General Education Personnel, Medical and Health Care Providers, Law Enforcement Personnel, Psychologists and other Mental Health Workers, Institutions of Higher Education, Addiction Counselors, Parents	Materials Completed by 5/94; Dissemination and Training Ongoing Thereafter
	F-4 Socially Maladjusted: Development of Informational Materials, Guidelines, and Training Modules	Building Level Support Teams, Other General Educators, Special Educators, Administrators, Parents, Law Enforcement Personnel, Physicians, Psychologists, Institutions of Higher Education	Materials Completed by 5/94; Dissemination and Training Ongoing Thereafter
	F-5 Chemical Dependency and Students with Disabilities: Development of Informational Materials, Guidelines, and Training Modules	Special and General Education Personnel, Medical and Health Care Providers, Law Enforcement Personnel, Psychologists and other Mental Health Workers, Institutions of Higher Education, Addiction Counselors, Parents	Materials Completed by 5/94; Dissemination and Training Ongoing Thereafter
	F-6 Autism: Development of Information Packet, Policies, Procedures and Guidelines and Training Modules	Special Educators, Administrators, General Educators, Parents, Related Service Personnel, Medical and Health Care Providers, Mental Health Personnel, Institutions of High Education, Providers in Other Agencies (e.g. Centers for Independent Living)	Materials, Policies and Guidelines Completed by 5/94; Dissemination and Training Ongoing Thereafter
	F-7 Traumatic Brain Injury: Development of Information Packet, Policies, Procedures, and Guidelines and Training Modules	Special Educators, Administrators, General Educators, Parents, Related Service Personnel, Medical and Health Care Providers, Mental Health Personnel, Institutions of High Education, Providers in Other Agencies (e.g. Centers for Independent Living)	Materials, Policies and Guidelines Completed by 5/94; Dissemination and Training Ongoing Thereafter

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PRIORITY	CONTENTS/OBJECTIVES	TARGET AUDIENCE	TIMELINE
F. Awareness/Knowledge Needs (cont.)	F-8 Agency Services: Development of Directory, Guidelines for Use and Training Module	Educators (Special and General), Parents, Advocates, Other Agencies, Adults with Disabilities, General Public	Directory and Guidelines Completed by 5/95; Dissemination and Training 5/95 - 12/95 and as Needed Thereafter (or as directory is updated)
	F-9 Parent Rights: Development of Training Modules	Parents, Students with Disabilities, Advocacy Groups, Other Agencies, Educators	Modules Completed by 12/94; Dissemination through State's Parent Training and Information Center or Local Family Educator Enhancement Teams; Training Ongoing
G. Recruitment and retention of special education personnel	Recruitment of special education and related service personnel through universities or special education units; retention of employed special education and related service personnel	Special Education Directors, Superintendents, Principals	Develop products by 5/93; disseminate materials and train from 5/93; Ongoing use

6. Evaluations must be completed on the Department of Public Instruction and special education unit inservice plans and activities by the participants and workshop trainers to ensure that effective and innovative practices are used.

7. The Department of Public Instruction ensures involvement of local personnel (educators, parents, and community representatives) in local planning efforts. All special education units have inservice committees to evaluate needs and develop plans for addressing these needs.

8. Each public agency uses a variety of incentives to ensure participation such as released time, stipends, expense reimbursement, college and continuing education credit, salary step credit, renewal of teaching certificate, and updating of professional skills.

E. Preservice

The Department of Public Instruction annually solicits information from each special education unit concerning the number of:

1. professional personnel currently employed

2. paraprofessionals currently employed

3. unfilled positions

4. new positions anticipated.

In addition, each institution of higher education which prepares teachers and related services personnel to work with students with disabilities identifies numbers of current graduates in the preservice training priorities. Representatives of each of the institutions of higher education meet with the IDEA-B Advisory Committee when personnel preparation issues are discussed. In addition, each university with special education or related services training programs is represented on the CSPD Subcommittee.

Priority needs are teachers of children who are emotionally disturbed, speech/language pathologists, occupational and physical therapists, school psychologists, teachers of students with specific learning disabilities, and preschool students with disabilities.

North Dakota has two public institutions of higher education and one private college that provide preservice training in several areas of special education. Two of these institutions are located in the western half of the state and one is in the east. The institutions are: Minot State University, Minot; University of North Dakota, Grand Forks; University of Mary, Bismarck. Major areas of preparation of personnel by institution are presented in Table 2.

Since these programs in the past have been able to meet approximately 80 percent of the need for teachers each year, all areas are considered important. However, North Dakota continues to lose many of the graduates of these programs to neighboring and other states. Some of the state's need is met by personnel trained elsewhere, but not enough to address the needs adequately. Currently there are vacancies in all of the special education categorical areas.

The Department of Public Instruction utilizes IDEA-D personnel Preparation Program Grant funds in conjunction with the Personnel Preparation Training Grant funds that the state colleges and universities receive to address personnel training needs in the state. Traineeships and stipends are used as incentives to recruit and encourage personnel to attend special education training programs and become qualified to work with students with disabilities, particularly in the rural areas in the state.

F. Data Collection System for Personnel Needs

Throughout the state, a significant number of trained personnel do not continue to work in their area of training because of movement out of state, out of rural areas, and out of special education into the general education classrooms as positions become available. For special education units to function efficiently and effectively, they

must be able to identify the nature and scope of personnel shortages. It is therefore imperative that a reliable data collection and analysis system be in place.

The CSPD Committee is currently designing the system to be in place within North Dakota. This system will describe the data elements, the data collection procedures, how data will be analyzed and disseminated locally, regionally, and statewide.

1. Characteristics of Data on Qualified Personnel

The North Dakota Personnel Data System will provide, on an annual basis:

a. the number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

b. the number and type of personnel who are employed and who do not meet the highest professional standard; and

c. the number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the numbers of those personnel that will be needed in five years, based on projections of individuals to be served, retirement and other departures of personnel from the field, and other relevant factors.

TABLE 2. Preservice Preparation Programs in North Dakota

	GRADUATE										
	MR	ED	SPP	SLD	PT	OT	VI	HI	PRE	A	SMH
Minot State University - Minot			X	X				X		X	X
University of North Dakota - Grand Forks	X	X	X	X	X	X	X		X	X	
University of Mary - Bismarck		X		X							

	UNDERGRADUATE									
	MR	ED	SPP	SLD	PT	OT	VI	HI	PRE	APE
Minot State University - Minot	X							X		
University of North Dakota - Grand Forks	X	X			X	X			X	
North Dakota State University - Fargo										X
University of Mary - Bismarck	X									

MR - Mental Retardation
ED - Emotionally Disturbed
SPP - Speech Pathology
SLD - Specific Learning Disability
PT - Physical Therapy
OT - Occupational Therapy
VI - Visually Impaired
HI - Hearing Impaired
PRE - Preschool Handicapped
A - Audiology
SMH - Severe Multihandicapped
APE - Adaptive Physical Education

2. The data on special education and related services personnel will include audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, physical education teachers, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teacher aides, recreation and therapeutic recreation specialists, vocational education teachers, work-study coordinators, and other instructional and noninstructional staff.

3. The data on leadership personnel will include administrators and supervisors of state or local agencies who are involved in the provision or supervision of services or activities necessary to carry out the purposes of Reg. 300.380-300.383.

The North Dakota Personnel Data System will enable the state to determine, on an annual basis, the institutions of higher education within the state that are preparing special education and related services personnel (see Table 2), including leadership personnel, by area of specialization. This includes:

a. the numbers of students enrolled in programs for the preparation of special education and related services personnel administered by these institutions of higher education; and

b. the numbers of students who graduated during the past year with certification or licensure, or with credential to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by institutions of higher education.

It is projected that the North Dakota Personnel Data System will be in place by July 1994.

G. Recruitment, Preparation and Retention of Minorities and Persons with Disabilities

1. Recruitment

The NDDPI will coordinate with institutions of higher education to recruit members of underrepresented populations, including members of racial or ethnic minority groups and individuals with disabilities into the teacher special education programs. Efforts will include:

a. working with community colleges, including tribal colleges, to provide information to faculties and students on opportunities and needs in special education. This includes information on internships and traineeships available through NDDPI grants.

b. disseminating information on needs and opportunities in special education through NDDPI's Division of Indian Education, Bureau of Indian Affairs schools, North Dakota Indian Affairs Commission, and Governor's Committee on Employment of People with Disabilities.

c. working with directors of special education throughout the state to encourage them to identify regular education teachers who have interest and potential to fulfill special education training, and to support those teachers during that training.

d. working with sponsors of job fairs and career days to ensure that notices are placed with media likely to be noted by members of racial or ethnic minority groups (such as tribal newspapers) and individuals with disabilities.

e. disseminating information through university representatives regarding current needs and opportunities available to members of racial or ethnic minority groups and individuals with disabilities.

f. developing and disseminating brochures concerning special education opportunities to university student organizations, including those with members who have disabilities and those belonging to racial or ethnic minority groups.

2. Preparation and Retention at the Undergraduate Level

NDDPI will coordinate and facilitate efforts to prepare and retain students enrolled in special education teacher preparation programs through:

a. providing speakers to university undergraduate classes regarding needs and opportunities in special education.

b. arranging for members of racial or ethnic minority groups or individuals with disabilities to speak to undergraduate students regarding needs and opportunities in special education.

c. preparing an information piece/brochure that addresses job duties and responsibilities associated with various special education opportunities.

3. Retention of Qualified Personnel

NDDPI will address retention of qualified personnel through:

a. encouraging networking and other means of mutual support among employed special education personnel

b. working with special education directors throughout the state to encourage their efforts to employ members of racial or ethnic minority groups and persons who have disabilities

c. identifying reasons trained special education and related personnel exit current positions, and developing a plan to address the issues.

H. Dissemination and Adoption

1. Acquiring Information

Brochures on parent and student rights are disseminated to families through local special education units. The brochure was prepared and distributed with IDEA-B funds.

Bulletins from the National Association of State Directors of Special Education are distributed periodically to directors of special education and other administrators.

Counterpoint, published by the National Association of State Directors of Special Education, is mailed to all school buildings in the state four times a year.

The Educational Resources Information Center (ERIC) Clearinghouse on Handicapped and Gifted Children, and CEC Information Center, Reston, Virginia, provide information on materials and promising practices which will be forwarded to special education units. SPECIALNET provides a resource of information on materials, programming, and personnel development opportunities.

Information disseminated by the Mountain Plains Regional Resource Center (or other RRCs) is passed on to local special education unit administrative personnel and general education administrators.

A State Facilitator Project is operated by the Department of Public Instruction's Curriculum Division. This project provides information about exemplary programs that have been nationally validated and are disseminated by the National Diffusion Network (NDN). Information regarding NDN projects are regularly distributed to local special education units.

2. Content of Disseminated Information

A wide variety of information relevant to personnel providing or supervising special education services is disseminated.

Local educators and other interested persons will be kept up-to-date on innovative programs and practices targeted to local needs through workshops and conferences sponsored by the Department of Public Instruction and described in the Department's monthly newsletter, The Superintendent's Report.

3. Description of Dissemination Procedures

a. Transmittal of Information

The Department of Public Instruction dissemination efforts include the use of instructional materials and other media for personnel development and instructional programming. A system to originate, acquire, review, and disseminate significant information derived from educational research, demonstration, and other projects has been developed and implemented. When appropriate, information about promising educational practices derived from educational research, demonstration, and other projects has been developed and implemented. When appropriate, information about promising educational practices and materials proven effective through research and demonstration will be disseminated through professional meetings, correspondence, visual and print media, and on-site visits. Educational practices in use in the state receive thorough reassessment by local public agency and the Department of Public Instruction evaluation and monitoring procedures. Various resources at the state, local, and regional levels assist in meeting the state's personnel preparation needs. These include among others, the public school districts, higher education, human services agencies, parent groups, advocacy organizations, state operated programs, and private institutions. The North Dakota State Teachers Convention/CEC Meetings will be used for dissemination.

Counterpoint, published by the National Association of State Directors of Special Education is mailed to all school buildings in the State four times a year.

Articles on selected innovative programs and projects will also be sent to state newspapers for dissemination.

b. Targets of Dissemination Activities

Information is disseminated to the following groups and agencies:

(1) special education units

(2) state operated residential programs

(3) private institutions/schools

(4) public schools

(5) parent groups (e.g. Association of Retarded Citizens, Learning Disabilities Association, Deaf/Blind Parent Group, etc.)

(6) other agencies (e.g. Community Health Agencies, Head Start Programs, Developmental Disabilities Case Management System, Office of Vocational Rehabilitation, etc.)

(7) institutions of higher education

(8) hospitals, clinics, American Academy of Pediatrics

(9) IDEA-B Advisory Committee, CSPD Subcommittee

(10) local Family-Educator Enhancement Teams (FEET) within each special education unit

(11) interagency teams of the North Dakota Early Childhood Tracking System (NDECTS). There are 39 interagency teams representing a wide range of community agencies that work with children and families.

I. Adoption of Education Practices

1. Special education directors, the Department of Public Instruction personnel, and the CSPD Subcommittee will meet and select model programs from the state. Programs will be selected based on the quality of educational services and will represent all service models and types of students with disabilities in both urban and rural settings. A description of these programs will be included in The Superintendent's

Report. A more detailed report of the program will be available at the state special education office.

2. To assess education practices, the Department of Public Instruction, Division of Special Education, has developed several methods of needs assessments and monitoring. To obtain information on techniques used for different types of instructional problems, the Department of Public Instruction will use various kinds of needs assessment. This includes formal and informal on-site visitations to review current educational practices and the qualitative and quantitative program data included in the monitoring system, state level sponsored workshops, and subsequent evaluations. Information regarding these practices will be disseminated through requested technical assistance, in recommendations for corrective action planning, model demonstration sites, training, and print information.

J. Technical Assistance

The Department of Public Instruction provides technical assistance to special education units regarding their implementation of the state's CSPD. This includes the guidelines provided to special education units in developing the local CSPD plan, on-site visits, workshops, program monitoring, and other related activities.

XI. PLACEMENT IN PRIVATE SCHOOLS (20 U.S.C. 1413(a)(4)(B); 34 CFR 300.140, 300.401-300.403, 300.450-300.452; 76.651-76.662)

A. Policy

A student with a disability who is placed in or referred to a private school or facility by a public agency will be provided with special education and related services (1) in conformance with an individualized education program which meets the requirements under 300.340-300.349; (2) at no cost to parents if the student is placed in such school or facility by the state as designated under Public Laws 101-476 and 102-119 or special education unit as a means of carrying out the individualized special education program for the student; and (3) at a school or facility which meets the standards that apply to the Department of Public Instruction and local educational agencies.

If a student with a disability is placed in a private school or facility by the special education unit, the Department of Public Instruction assures that the student has all the rights he/she would have if served by a public school.

The Department of Public Instruction assures that the subgrantee (special education unit) shall provide students enrolled in private schools with genuine opportunity for equitable participation in accordance with the requirements in 76.652-76.662 and in the authorizing statute and implementing regulations for a program. The subgrantee shall provide that opportunity to participate in a manner that is consistent with the number of eligible private school students and their needs (76.651 (a)(1)(2)). The Department of Public Instruction will follow all requirements of sections 76.651-76.662 of EDGAR and assure that subgrantees comply with these regulations.

B. Regulations

Implementation by State Educational Agency (300.402)

1. Whenever students with disabilities are placed in a private school or facility by public education agencies, the Department of Public Instruction will require the private school to conform to state requirements applicable to public schools. The private school or facility will be monitored by the Department of Public Instruction using established procedures including review of student files, interviews with administrators and staff during on-site visits, and contact with parents.

2. The Department of Public Instruction will disseminate a copy of applicable state standards and revisions as they occur to each private school and facility to which a public agency has referred or placed a child with a disability.

3. Private schools and facilities will have the opportunity to assist in developing and revising state standards relating to special education.

Placement of Children by Parents (300.403)

4. Under Part B, a free appropriate public education must be made available to each child with a disability by the public agencies of the state. In some instances, the parents of a child with a disability may choose to send the child to a private school rather than take advantage of the free public education. If this happens, the Act does not require the state or local educational agency to bear the cost of the private school. For children placed in private schools by their parents, the state and its special education units have a different duty. They must design the program so that children with disabilities in those private schools can participate in special education and related services supported under 300.450 - 300.460, if the parents of those children so desire.

5. If a parent contends that an appropriate program for the student does not exist and hence is forced to seek private schooling and the responsible agency disagrees, that disagreement and the question of financial responsibility is a matter to which due process procedures under 300.500-300.514 apply.

State Education Agency Responsibility (300.451)

6. The Department of Public Instruction will insure that to the extent consistent with their number and location in the state, provision is made for the participation of private school children with disabilities in the program assisted or carried out under this part by providing them with special education and related services; and that the requirements in 34 CFR 76.651 - 76.663 of EDGAR are met.

Local Educational Agency (LEA) Responsibility (300.452)

7. Each special education unit (SEU) will provide special education and related services to meet the needs of private school students with disabilities residing in its district.

Enrollment of Students (76.651)

8. Each special education unit must insure that, to the extent consistent with their number and location in the state, provision is made for a genuine opportunity for equitable participation of private school children in the program assisted or carried out under Part 76.652 - 76.662.

9. Each state and special education unit providing special education and related services to children enrolled in private schools will maintain administrative control over funds and property that benefit those students.

10. The Department of Public Instruction will ensure that each SEU complies with the requirements in 76.651 - 76.662, and , if a project is carried out directly by the Department of Public Instruction, the Department will comply these requirements.

Consultation with Representatives of Private School Students (76.652)

11. The SEU shall consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of the project covered by the application, including consideration of:

    a. which children will receive benefits under the project,

    b. how the children's needs will be identified,

    c. what benefits will be provided,

    d. how benefits will be provided, and

    e. how the project will be evaluated.

12. The SEU shall consult with appropriate representatives of students enrolled in private schools before the subgrantee makes any decision that affects the opportunities of students to participate in the project.

13. The SEU shall give the appropriate representative a genuine opportunity to express views regarding each matter subject to consultation requirements in section.

Needs, Number of Students and Types of Services (76.653)

14. The needs of private school students with disabilities, the number of them who will participate under this part, and the types of special education and related services that the special education unit will provide for them will be determined by the special education unit on a basis comparable to that used in determining participation of public school students. In meeting this requirement, each special education unit must (1) use the results of the evaluations conducted under Regulations 300.530-300.534 of the regulations (Protection in Evaluation Procedures), and (2) consult with private school officials to plan the kinds of special education and related services to be provided to each child. Any services which are provided by the public agency must be in accordance with an individualized education program developed by the public agency in conjunction with the parent and a representative of the private school (Reg. 300.348).

Benefits for Private School Students (76.654)

15. Services to private school children with disabilities must be comparable to those provided to children with disabilities in the public schools. Specifically, the special education and related services must be comparable in quality, scope, and opportunity for participation to those provided to public school children with similar needs. In addition, each LEA must provide private school children with disabilities with equitable opportunities to participate in special education and related services consistent with the number of those children and their needs.

16. If a SEU uses funds under a program for public school students in a particular attendance area, or grade or age level, the SEU shall ensure equitable opportunity for participation by students enrolled in private schools who:

    a. have the same needs as public school students to be served; and

    b. are in that group, attendance area, grade level or age.

17. If the needs of students enrolled in private schools are different from the needs of students enrolled in public schools, a subgrantee shall provide program benefits for the private school students that are different from benefits the subgrantee provides for public school students.

Level of Expenditure (76.655)

18. The SEU must spend the same average amount of program funds on a student enrolled in a private school who receives benefits under the program, and a student enrolled in a public school who receives benefits under the program.

19. The SEU must spend a different average amount on program benefits for students enrolled in private schools if the average cost of meeting the needs of those students is different from the average cost of meeting the needs of students enrolled in public schools.

Information in an Application (76.656)

20. An applicant for a subgrant must include the following information in its application:

    a. a description of how the applicant will meet the Federal requirements for participation of students enrolled in private school;

    b. the number of students enrolled in private schools who have been identified as eligible to benefit under the program;

    c. the number of students enrolled in private schools who will receive benefits under the program;

    d. the basis the applicant used to select the students;

    e. the manner and extent to which the applicant complied with section 76.652 (consultation);

f. the places and times that the students will receive benefits under the program; and

g. the differences, if any, between the program benefits the applicant will provide to public and private school students and the reasons for the differences.

Separate Classes Prohibited (76.657)

21. Programs or projects carried out in public facilities, and involving joint participation by eligible children with disabilities enrolled in private schools and children with disabilities enrolled in public schools, may not include classes that are separated on the basis of school enrollment or the religious affiliations of the children if:

a. the classes are at the same site; and

b. the classes include students enrolled in public schools and students enrolled in private schools.

Funds Not to Benefit Private School (76.658)

22. Provisions for serving private school children with disabilities may not include the financing of the existing level of instruction in a private school or to otherwise benefit the private school.

23. The SEU must use program funds to meet specific needs of students with disabilities enrolled in private schools, rather than

a. the needs of a private school; or

b. the general needs of the students enrolled in a private school.

Use of Public School Personnel (76.659)

24. Public school personnel may be made available in other than public school facilities (1) to the extent necessary to provide services required by the children with disabilities for whose needs those services were designed, and (2) when those services are not normally provided by the private school.

Use of Private School Personnel (76.660)

25. Part B funds may not be used to pay for the salaries of private school employees, except for services performed outside of their regular hours of duty; and under public supervision and control.

Equipment and Supplies (76.661)

26. Equipment acquired with Part B funds may be placed on private school premises for the limited period of time of the project, but title to and administrative control over all equipment must be retained and exercised by a public agency. The public agency shall keep records of and account for the equipment, and shall insure that it is used solely for the purpose of the Part B program or project. The public agency must ensure that equipment and supplies placed in a private school can be removed from the private school without remodeling the private school facilities.

27. The public agency must remove equipment or supplies from a private school if:

a. it is no longer needed for the purposes of the program or project; or

b. removal is necessary to avoid use of the equipment or supplies for other than project purposes.

Construction (76.662)

28. A SEU shall ensure that program funds are not used for the construction of private school facilities.

Local Educational Agency Responsibility (300.452)

29. The local educational agency (LEA) where the child and his or her parents reside is responsible for providing services. Where a child and his or her parents live in one LEA (district of resident) but the child attends private school in another LEA, the first LEA (district of residence) remains responsible. However, two LEAs may work out a cooperative agreement on how services are to be made available to the child.

C. Procedure

1. Whenever a student with a disability is to be placed in a private school at school district expense, the Department of Public Instruction will require the appropriate contract between the special education unit and the private school with approval by the Department as required by state law. (Section 15-59-07 North Dakota Century Code). (See Appendix B.)

2. Each private school must make accessible for review, to the Department of Public Instruction upon request, each individualized education program for a student with a disability.

D. Monitoring

1. Placement is approved and attendance verified annually for each student attending a private school in or out-of-state by the State Director of Special Education and payment authorized by the Director of Finance, Department of Public Instruction.

2. Each IDEA-B project submitted for approval by the Department of Public Instruction must contain information about how the needs of students with disabilities in private schools will be served by the project.

3. Each project will give assurance that regulations 1 through 29 in Section B will be carried out.

4. Monitoring will be conducted as a part of the regular monitoring process, as described in Appendix D.

XII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILD (20 U.S.C. 1413(a)(5); 34 CFR 300.141)

A. Policy

The North Dakota Department of Public Instruction will seek to recover any funds made available under Public Laws 101-476 and 102-119 for services to any child who has been determined erroneously classified as eligible to be counted through the annual child count.

B. Procedures for Implementing and Monitoring Child Count

1. The Department of Public Instruction will review annually the regulations for conducting a statewide child count.

2. The Department of Public Instruction will send letters explaining child count procedures to all special education units.

3. Each special education unit will respond to the request by submitting required data using a diskette formatted by the Department of Public Instruction.

4. Each individual responsible for collecting child count information will verify to the best of his/her knowledge that the count is a true, accurate count by submitting a sworn affidavit.

5. Data are edited through computer checks as well as visual scanning to identify errors. Each apparent error and data element is checked with the special education unit by which it was submitted, and changes are entered into the child count data base.

6. The Department of Public Instruction compiles all child count information in required report forms.

7. Child count information submitted by special education units will be analyzed, comparing data to other records containing numbers of served students with disabilities collected by the Department of Public Instruction.

8. The Department of Public Instruction monitoring procedure to verify accuracy of the special education unit child count is as follows:

   a. A sample of students from the current child count is selected. An attempt is made to include all categories of disability.
   b. The files for these students are reviewed on site for timeliness and completeness.
   c. Student eligibility will be determined based on the following criteria:

      (1) IEP was in effect and child was receiving special education and related services on IEP at the time of the count;
      (2) evidence that child has been evaluated and determined to be a child with a disability eligible to receive special education and related services;
      (3) evidence of enrollment in school at the time of the count; and
      (4) evidence that the child was not counted under Chapter 1.

   d. Verification may occur more than once every five years, which is the current monitoring cycle.

C. Procedures to Recover Funds Made Available for Children Erroneously Classified as Eligible to be Counted

1. The Department of Public Instruction will request the special education unit to return federal funds for all misclassified children who were included in the child count. These funds must be returned to the Department of Public Instruction within 30 days of notification.

2. It is the policy of the Department of Public Instruction to request return of federal per pupil allocations in a direct ratio to the percentage of error found during monitoring.

   Example: If 20 files are reviewed and it is found that 2 of the students should not have been counted, the Department of Public Instruction will assume the special education units count has a 10% error; if the child count for that year is 500 students, the Department of Public Instruction will request the return of .10 X 500 X per pupil allocation.

   A request for return of funds will not be made without first affording the unit a review after reasonable notice has been given and the unit has had an opportunity to present information and data relating to the error calculation.

   If the error is substantiated, the funds in question must be returned within 30 days of request.

3. If the special education unit does not return the funds, the Department of Public Instruction will suspend federal financial assistance immediately until the situation is clarified.

4. The Department of Public Instruction will return all funds to the Department of Education, Office of Special Education Programs for misclassified children who were included in the child count.

II. NOTICE AND OPPORTUNITY FOR HEARING ON SPECIAL EDUCATION UNIT APPLICATION (20 U.S.C. 1413(a)(8); 34 CFR 300.144; 76.401)

A. Policy

Before taking any final action regarding any application submitted by a local education agency, the Department of Public Instruction provides reasonable notice and opportunity for a hearing.

B. Procedure

Disapproval of an Application, Opportunity for a Hearing (76.401)

1. Final disapproval action will not be taken by the Department of Public Instruction on any application submitted by a special education unit without first affording the applicant reasonable notice and opportunity for a hearing.

2. The following procedures will be followed as set forth under section 76.401 of the Education Department General Administrative Regulations (EDGAR) revised July 1, 1990.

   a. The applicant shall request the hearing within 30 days of the action of the Department of Public Instruction.

   b. Within 30 days after it receives a request, the Department of Public Instruction shall hold a hearing on the record and shall review its action.

   c. No later than 10 days after the hearing the Department of Public Instruction shall issue its written ruling, including findings of fact and reasons for the ruling.

   d. If the Department of Public Instruction determines that its action was contrary to State or Federal statutes or regulations that govern the applicable program, it shall rescind its action.

   e. If the Department of Public Instruction does not rescind its final action after a review, the applicant may appeal to the Secretary. The applicant shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the Department of the results of the Department of Public Instruction's review. If supported by substantial evidence, findings of fact of the Department of Public Instruction are final.

   f. The Department of Public Instruction shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting under this section including records of other applicants.

XIV. ANNUAL EVALUATION (20 U.S.C. 1413(a)(11); 34 CFR 300.146)

A. Policy

The Department of Public Instruction will evaluate at least annually the effectiveness of IDEA-B programs in meeting education needs of children with disabilities including the evaluation of individualized education programs.

B. Regulation

1. The Department of Public Instruction will annually review each program application for funds requested under P.L. 101-476 and 102-119. Each application must include evaluation criteria for the project.

2. The Department of Public Instruction will annually review each program final report. The final report must include evaluation data collected during the project.

3. The Department of Public Instruction will monitor each special education unit at least every five years through the state monitoring procedure. All records (including the individual education program for children served in the program) will be available to the Department of Public Instruction upon request.

C. Procedures

1. The Department of Public Instruction will facilitate evaluation of special education program components in individual special education units using the evaluation study model of the Visual Tutor Company. The Department will review evaluation study results as input for determining and meeting statewide needs.

2. The Department of Public Instruction will utilize the Interagency Committee on Transition and the statewide Advisory Committee on Transition to assist in identifying and interpreting outcomes for transition efforts, and to refine and evaluate a comprehensive transition service delivery system. This includes a follow-along/follow-up component.

3. The Department of Public Instruction is participating in a study conducted by American Institutes of Research to identify adult service needs of exiting secondary special education students. Data from this study along with that of a recent statewide pilot follow-up study will be reviewed as one means of evaluating competencies taught at the secondary level in preparation for transition. Information will be disseminated to special education units.

4. The Department of Public Instruction reviews, at least annually, statewide data on type, number and location of staff to determine staffing patterns and movement. Information is used to address issues of recruitment and retention of appropriate personnel, particularly in rural and sparsely populated areas, and is disseminated to special education units.

5. The Department of Public Instruction reviews, at least annually, monitoring data to determine extent to which IEP standards are met, local procedures are followed as written, and appropriate personnel are involved in assessing and serving students with disabilities.

DESCRIPTION OF USE OF PART B FUNDS (20 U.S.C. 1413(a)(1); 34 CFR 300.148, 300.149, 300.620, 300.621, and 300.370)

A. Policies and Procedures for Use of Part B Funds (300.148)

Funds provided under Part B of the Act may be utilized for the payment of direct educational services or support services to children with disabilities. The term "free appropriate public education" means special education and related services which are provided in conformity with an individualized education program.

B. Description of Use of Part B Funds (300.149)

1. State Administrative Positions Supported with Part B Funds, FY 1993-95

Title of Position	Percent of Support
Director of Federal Programs	100%
Assistant Director of Special Education	50%
Assistant Director of Special Education	50%
Coordinator of Special Education	100%
Coordinator of Special Education	60%
Coordinator of Special Education	100%
Account Technician	45%
Office Manager	100%
Secretary	80%
Secretary	80%
Secretary	80%

2. Description of Positions

Director of Federal Programs - Manage federal grants to include review, approval and monitoring grant awards to LEAs. Perform fiscal control and certification, cost estimating, budgeting and analysis of federal grant funds.

Assistant Director of Special Education - Responsible to establish and review personnel standards, supervise the monitoring system and local program approvals, coordinate selected program areas and assist in special education financing.

Assistant Director of Special Education - Responsible to supervise program development and improvement for categorical area programs in special education.

Coordinator of Special Education - Responsible to assist in monitoring federal and state special education laws, regulations, and guidelines in special education units and state operated/ supported programs. Area of concentration is in mental retardation.

Coordinator of Special Education - Responsible for coordinating and carrying out monitoring of federal and state special education laws, regulations, and guidelines in special education units and state operated/supported programs. Develops and prepares the State Plan.

Coordinator of Special Education - Responsible for assisting monitoring of federal and state special education laws, regulations and guidelines in special education units and state operated/supported programs. Supervises development and improvement of SED and autism programs.

Account Technician - Responsible to process funds allocated to special education units and provide current information on accounts to the Division of Special Education.

Office Manager - Responsible for office coordination between professional and support staff.

Secretary - Provide support services for the professional staff.

3. Description of Administrative Activities to be Carried Out with Part B Funds, FY 1993 - FY 1995

   a. Part B administration activities include preparing the State Plan, developing and implementing application procedures, processing applications, and preparing federal performance and data reports, etc.

   b. The Department of Public Instruction is responsible to monitor all special education units for compliance to Public Law 101-476. Expenditures include transportation, subsistence, communication, duplication, and reimbursement for services of nonemployed persons for on-site visitations and administrative reviews.

   c. The Department of Public Instruction provides technical assistance to local programs through on-site visits, production and distribution of information bulletins and workshops.

   d. The Department of Public Instruction provides mass media coverage for Statewide Project Child Find the third week in September. The coverage will be provided through the major television and radio stations in North Dakota.

4. Description of Direct and Support Services to be Provided with Part B Funds, FY 1993-FY 1995

   a. Direct Services

      The North Dakota Department of Public Instruction does not provide any services directly to children with disabilities at the present time.

   b. Support Service Activities

      1. Inservice Training

         Activities to be covered under this part are related to implementing the Comprehensive System of Personnel Development priorities, public information priorities, and other training opportunities related to a free appropriate public education for children with disabilities such as Child Find Activities, mediation, hearing officer training, and statewide inservice priorities.

         The Department of Public Instruction plans to develop statewide workshops concerning critical implementation issues of Public Laws 101-476 and 102-119. Expenditures include consultant fees, transportation, and subsistence.

      2. Child Information System

         The Department of Public Instruction will continue to support and update a computerized child information system that is used on the state level to produce the annual child count and is used at the local level to also

provide information such as demographics, IEP information, transportation needs, and need for medication.

3. Program Evaluation

The Department of Public Instruction will facilitate program evaluation at the local and special education unit level by providing working sessions to assist in formulating evaluation questions and issues, identifying data needs and sources, designing data collection procedures and instruments, and analyzing results. Expenditures include consultant fees, transportation, and subsistence.

c. IDEA-B Advisory Panel Activities

The IDEA-B Advisory Panel meets up to four times during each year and will advise the Department of Public Instruction of programming needs within the state for children with disabilities. The panel will comment publicly on any rules or regulations proposed for issuance by the state regarding the education of children with disabilities and the procedures for distribution of funds under this part. The panel will assist the state in developing and reporting data as required by IDEA-B.

5. Special Education Unit Allocations

a. Estimate of number and percentage of special education units in state to receive allocation under Part B (not consolidated application).

Fiscal Year 1993 - 9, or 29 percent
Fiscal Year 1994 - 9, or 29 percent
Fiscal Year 1995 - 9, or 29 percent

b. Estimate of number of special education units to receive allocation under consolidated application.

Fiscal Year 1993 - 71 percent
Fiscal Year 1994 - 71 percent
Fiscal Year 1995 - 71 percent

c. Estimate number of consolidated applications.

Fiscal Year 1993 - 22
Fiscal Year 1994 - 22
Fiscal Year 1995 - 22

d. An average number of school districts per consolidated application.

Fiscal Year 1993 - 12.7
Fiscal Year 1994 - 12.0
Fiscal Year 1995 - 11.4

e. Description of direct services.

The North Dakota Department of Public Instruction does not provide any services <u>directly</u> to children with disabilities.

C. <u>Federal Funds for State Administration</u> (300.620)

The State of North Dakota is eligible to retain $450,000 for administrative support at the SEA level. Approximately 86 percent is allocated to local special education units based on the previous December 1 Child Count.

The State of North Dakota may use five percent of the total State allotment in any fiscal year under Part B of the Act, or $450,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the Act. However, this amount cannot be greater than twenty-five percent of the State's total allotment for the fiscal year under Part B of the Act.

D. Allowable Costs (300.621)

1. The Department of Public Instruction may use funds under 300.620 of this subpart for:

   a. administration of the annual program plan and for planning at the state level, including planning, or assisting in the planning of programs or projects for the education of children with disabilities;

   b. approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of children with disabilities;

   c. technical assistance to local educational agencies with respect to the requirements of this part.

   d. leadership services for the program supervision and management of special education activities for children with disabilities; and

   e. other state leadership activities and consultative services.

2. The Department of Public Instruction will use the remainder of its funds under 300.620 in accordance with 300.370 of Subpart C.

E. Use of State Agency Allocations (300.370)

The Department of Public Instruction may use the portion of its allocation that it does not use for administration under 300.620 - 300.621 for:

1. support services and direct services in accordance with the priority requirements under 300.320 - 300.324; and

2. the administrative costs of the Department's monitoring activities and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during fiscal year 1985.

XVI. ADDITIONAL INFORMATION

The Department of Public Instruction does not provide any direct services to children with disabilities.

XVII. INTERAGENCY AGREEMENTS (20 U.S.C. 1413(a)(13); 34 CFR 300.152)

A. Policy

It is the policy of the State of North Dakota to require that agreements between the Department of Public Instruction and other appropriate state and local agencies be developed to deliver services to individuals with disabilities.

B. Procedure

The North Dakota Interagency Steering Committee consists of one representative from each of the following: the State Board for Vocational Education; the North Dakota Department of Public Instruction, Division of Special Education; the Department of Human Services, Division of Vocational Rehabilitation and Division of Developmental Disabilities; and Job Service.

The Interagency Steering Committee will meet periodically throughout the year in order to develop a close working relationship on the mutual responsibilities and to add to and improve their respective contributions to the individuals with disabilities. This committee will be responsible for the development and implementation of interagency agreements between the Department of Public Instruction and other appropriate state agencies. (See Appendix H.)

1. Financial responsibility of each agency to provide FAPE to children with disabilities is identified.

   a. The Department of Public Instruction through the IEUs and LEAs is financially responsible for education services to children with disabilities.

b. It is the policy of the State Board for Vocational Education that students with disabilities must have equal opportunity to access regular vocational education programs. Vocational Education funds will also be used to support secondary special education students in modified vocational education programs.

c. The Department of Human Services provides support through the Divisions of Developmental Disabilities, Vocational Rehabilitation and Medical Services.

(1) Vocational Rehabilitation may provide services, in addition to those provided by the Department of Public Instruction through the LEAs and by the State Board of Vocational Education, needed to help the student who has a disability succeed in the program and to transition into employment.

(2) The Division of Developmental Disabilities provides services to children with disabilities ages 0-2.

(3) The Division of Medical Services provides Federal Medicaid matching funds for the cost of health services covered under the state's Medicaid plan, furnished to a child, infant or toddler who has a disability. The division also provides services to children from low income families who may have a disability through the Early and Periodic Screening, Diagnosis and Treatment program (EPSDT).

IDEA will not be construed by the state to permit the state to reduce medical or other assistance available under, or to alter the eligibility requirements of, programs funded in whole or in part through Title V (Maternal and Child Health) or Title XIX (Medicaid) of the Social Security Act, with respect to the provision of a free appropriate public education for children with disabilities within the state.

IDEA-B shall not be construed to limit the responsibility of agencies other than educational agencies in a state from providing or paying for some or all of the costs of a free appropriate public education to be provided children with disabilities in the state.

2. Resolving Interagency Disputes

a. Each agency will designate a representative to receive client complaints and serve on a committee to resolve interagency disputes.

b. Resolution of the situation will be accomplished through a cooperative effort by the representatives of the affected agencies.

3. Procedures under which LEAs may initiate proceedings to secure reimbursement from other agencies.

a. Special education services in North Dakota are provided through special education units (IEUs). These may be single or multidistrict units. All agencies will provide applicable financial support through the special education unit.

LEAs will make their requests for reimbursement to the unit who in turn will follow the procedures of each agency for financial reimbursement.

4. Anticipated Progress

a. The Division of Special Education has interagency agreements with all appropriate agencies in place, but there is a need to update some of the agreements to more clearly respond to the provisions in the 1986 statutory amendments.

b. It is anticipated that all agreements will be updated by July 1, 1994.

5. The appropriate state and local agencies with whom interagency agreements are implemented are:

a. State Board for Vocational Education

b. Department of Human Services

c. Department of Corrections

d. North Dakota Job Services

15-59-05.2. Interagency cooperative agreements for the provision of educational related services to handicapped students--Report by department of public instruction. The department of public instruction shall cooperatively develop and implement interagency agreements with appropriate public and private agencies, including the director of institutions, the state department of human services, and the state department of health, for purposes of maximizing available state resources in fulfilling the educational related service requirements of Public Law 94-142 (89 Stat. 773) and section 504 of the Rehabilitation Act of 1973, as amended. The department of public instruction shall report to the legislative council interim committee on education the content of such interagency agreements and the progress in achieving the goals and objectives set out therein at such times as the interim committee may direct.

XVIII. PERSONNEL STANDARDS (20 U.S.C. 1413(a)(14); 34 CFR 300.153)

A. Policy

It is the policy of the North Dakota Department of Public Instruction to establish and maintain personnel standards to ensure that personnel necessary to carry out the purpose of IDEA-B are appropriately and adequately prepared and trained.

B. Highest Requirement in North Dakota

The highest requirements in North Dakota for each of type of personnel serving children with disabilities is attached as Appendix J. Table 3 summarizes the need for various categories of personnel throughout the state.

1. Speech/Language Pathologist

The state's highest requirement in speech/language pathology is licensure or certification which requires master's level training. This requirement has been in place for new individuals entering the field effective September 1, 1990.

North Dakota is experiencing shortages of personnel in this area in certain geographic areas of the state, as indicated in Table 3. To support individuals who have bachelor's level training in speech/language pathology, but who do not meet the highest requirement, traineeships and internships are available upon application, and collaborative coursework with two state universities is regularly available (see XVIII.D.).

At the present time, the tutor in training option is available to special education units when qualified personnel are not available in speech/language pathology. The applicant must have a bachelor's degree in speech pathology, and be actively working toward meeting requirements at the master's degree level for speech/language pathology. A tutor in training can be employed after having completed the first eight graduate semester hours (twelve quarter hours) of the professional training program. The applicant agrees to return to summer school to complete the remaining coursework. A complete plan for working toward requirements must be developed by the individual and approved by the NDDPI prior to granting tutor in training status. Approval is issued by the NDDPI for no more than one year at a time, with a maximum of three years allowed to fully meet requirements. The special education unit must annually provide verification of coursework completed and ensure appropriate supervision from a qualified staff member on the Application for Program Approval submitted to the state office before each school year begins.

No temporary approvals for tutors in training will be issued after July 1, 2007. As of July 1, 2010, all speech/language pathologists must meet the highest requirements in the state for serving children with speech and language disabilities.

To supplement the need for trained people, North Dakota is considering recognition of a position of Communication Technician. This position would work

under the direct supervision of a licensed or certified speech/language pathologist and would have a limited job description. The Communication Technician position could be used as a career ladder for those persons who wish to pursue a bachelor's degree in speech pathology and have requirements applied toward meeting bachelor level requirements in Communication Disorders. They would then be eligible for admission to a master's program.

During the remainder of 1992, the Department of Public Instruction will develop a job description for the position. During 1993, the Department will work with Professional Practices Committee, North Dakota Speech and Language Association, and the North Dakota speech/language licensure board to develop training requirements and supervision requirements, and set forth policy and practices within the licensure or credential requirements. Efforts will be made to coordinate licensure laws and state certification requirements to support the anticipated position.

2. Specific Learning Disabilities

The state's highest requirement in specific learning disabilities is a Professional Certificate (requiring a bachelor's degree in elementary or secondary education) and specific graduate level course requirements resulting in a credential in specific learning disabilities.

North Dakota is experiencing shortages of qualified personnel in the area of specific learning disabilities in certain geographic areas of the state, as indicated in Table 3. To support individuals who have bachelor's level training in specific learning disabilities but who do not meet the highest requirement, traineeships and internships are available upon application.

At the present time, the tutor in training option is available to special education units when qualified personnel are not available in specific learning disabilities. The applicant must have a bachelor's degree, and be actively working toward meeting credentialing requirements for specific learning disabilities. A tutor in training can be employed after having completed the first eight semester hours (twelve quarter hours) of the professional training program. The applicant agrees to return to summer school to complete the remaining coursework. A complete plan for working toward requirements must be developed by the individual and approved by the NDDPI prior to granting tutor in training status. Approval is issued by the NDDPI for no more than one year at a time, with a maximum of three years allowed to fully meet requirements. The special education unit must annually provide verification of coursework completed and ensure appropriate supervision from a qualified staff member on the Application for Program Approval submitted to the state office before each school year begins.

No temporary approvals for tutors in training will be issued for people already serving children with specific learning disabilities after July 1, 2007. As of July 1, 2010, all personnel serving children with specific learning disabilities must meet the highest requirement in the state.

3. Emotional Disturbance

The state's highest requirement in emotional disturbance is a Professional Certificate (requiring a bachelor's degree in elementary or secondary education) and specific graduate level course requirements resulting in a credential in emotional disturbance.

North Dakota is experiencing shortages of qualified personnel in the area of emotional disturbance in certain geographic areas of the state, as indicated in Table 3. To support individuals who have bachelor's level training in emotional disturbance but who do not meet the highest requirement, traineeships and internships are available upon application.

At the present time, the tutor in training option is available to special education units when qualified personnel are not available in emotional disturbance. The applicant must have a bachelor's degree, and be actively working toward meeting credentialing requirements for emotional disturbance. A tutor in training can be employed after having completed the first eight semester hours (twelve quarter hours) of the professional training program. The

Table 3 . Summary of North Dakota Staffing, and Staffing Needs in Special Education (September, 1991)

PERSONNEL CATEGORY	*1990-91 FTE	UNFILLED POSITIONS AS OF 9/9/91	NUMBER OF POSITIONS FILLED WITH LESS THAN QUALIFIED PERSONNEL**
Trainable Mentally Handicapped	36	0	
Educable Mentally Handicapped	188.59	4	
Hearing Impaired	19.5	0	
Speech/Language	197.54	18	22
Visually Impaired	7.5	1	1
Seriously Emotionally Disturbed	23.5	7	6
Specific Learning Disability	292.28	9	27
Preschool Program for Handicapped Children	60.89	0	10
Occupational Therapy	13.2	0	
Physical Therapy	6.55	2	
Psychological Services	26.05	6	1
Audiological	2	0	
Social Work	39.53	1	
Program Coordinator	33.5	0	
Director of Special Education	23.94	0	
Aides	600.6	0	

* Source: Special Education Annual Report, 1990-91, North Dakota Department of Public Instruction, Bismarck, ND.

** Personnel in this column are enrolled as a condition of their temporary approval in time limited training programs to reach the highest standard in each area.

applicant agrees to return to summer school to complete the remaining coursework. A complete plan for working toward requirements must be developed by the individual and approved by the DPI prior to granting tutor in training status. Approval is issued by the DPI for no more than one year at a time, with a maximum of three years allowed to fully meet requirements. The special education unit must annually provide verification of coursework completed and ensure appropriate supervision from a qualified staff member on the Application for Program Approval submitted to the state office before each school year begins.

No temporary approvals for tutors in training will be issued for people already serving children with emotional disturbance after July 1, 2007. As of July 1, 2010, all personnel serving children with emotional disturbance must meet the highest standard in the state.

4. Early Childhood Education for Handicapped Children

The state's highest requirement in early childhood education for handicapped children is a Professional Certificate (requiring a bachelor's degree in elementary education) and specific graduate level course requirements resulting in a credential for early childhood education for handicapped children.

North Dakota is experiencing shortages of qualified personnel in the area of early childhood education for handicapped children in certain geographic areas of the state, as indicated in Table 3. To support individuals who have bachelor's level training in this area but who do not meet the highest requirement, traineeships and internships are available upon application.

At the present time, a letter of temporary approval option is available to special education units when qualified personnel are not available in early childhood education for handicapped children. The applicant must have a bachelor's degree, and be actively working toward meeting credentialing requirements in this area. An applicant can be employed after having completed the first eight semester hours (twelve quarter hours) of the professional training program. The applicant agrees to return to summer school to complete the remaining coursework. A complete plan for working toward requirements must be developed by the individual and approved by the NDDPI prior to issuance of a letter of temporary approval. Approval is issued by the NDDPI for no more than one year at a time, with a maximum of three years allowed to fully meet requirements. The special education unit must annually provide verification of coursework completed and ensure appropriate supervision from a qualified staff member on the Application for Program Approval submitted to the state office before each school year begins.

For people already serving children, no letters of temporary approval will be issued in the area of early childhood education for handicapped children after July 1, 2007. As of July 1, 2010, all personnel in this area must meet the highest requirement to serve the early childhood population.

5. All Other Teaching Areas

The state's highest requirement to teach in all other areas (i.e., deaf education, education of visually impaired, education of the mentally retarded, physically handicapped) is a valid Professional Certificate requiring a bachelor's degree with specific course requirements in the disability area (see Appendix I).

6. School Psychology

The state's highest requirement to practice school psychology is a master's degree in school psychology.

Presently, all school psychologists practicing in the state meet the highest requirement.

North Dakota currently has no university training program in school psychology. Moorhead (Minnesota) State University holds two positions in its school psychology training program for North Dakota residents. The Department of Public Instruction is currently formulating a plan to establish a school

psychology training program at a North Dakota university. It is expected that the plan will be in place by the fall of 1992.

7. Occupational Therapy

The state's highest requirement to practice occupational therapy is licensure obtained through completion of bachelor's degree level work.

Presently, all occupational therapists meet the highest requirement.

8. Physical Therapy

The state's highest requirement to practice physical therapy is licensure obtained through completion of bachelor's degree level work.

Presently, all physical therapists meet the highest requirement.

C. Paraprofessionals

Beginning with the 1993-94 school year, paraprofessionals will be required to participate in 40 hours of orientation and training, or demonstrate competencies covered within the 40 hours of training. Training will include information relating to specific children with whom they will be working. The orientation portion of the training must be completed prior to beginning employment. The remaining portions may be completed within three months of the date of employment.

Beyond the mandatory 40 hours, additional training modules will be offered to paraprofessionals. The training modules will carry college credit, if the individual so elects. Completion of training modules in this manner can lead to a credential for the paraprofessional. In addition, credits can be accumulated which can be applied toward an associate's degree. This, in turn, can be applied toward requirements for the bachelor's degree. The career ladder provided through this process provides incentive to those individuals who wish to initiate and continue special education training.

Development of plans for the training and dissemination of information about the requirements will be initiated during the 1992-93 school year.

D. Actions to Assist Personnel to Meet Highest State Requirements

1. Traineeships and Internships

The Department of Public Instruction provides support for personnel in disability areas experiencing personnel shortages (i.e., speech/language pathology, emotional disturbance, specific learning disabilities, and early childhood special education) through summer traineeships and year-long internships. Personnel shortages are determined for each special education unit by respective directors. The directors are asked to recruit personnel whom they judge to have a high commitment to education, are interested in pursuing training in areas with personnel shortages, and who are likely to remain in their geographic area after receiving special education training.

2. Additional Coursework Available in Speech/Language Pathology

To assist bachelor's degree level personnel in speech/language pathology to meet the state's highest requirement of a master's degree level, the Department of Public Instruction has worked collaboratively with the University of North Dakota and Minot State University to provide additional master's level coursework. These courses are offered four times throughout the school year. Those persons completing courses can receive credit toward a master's degree from either university through a reciprocal agreement.

3. Financial Incentive

Special education unit's receive a higher level of reimbursement for speech/language pathologists who meet the highest requirement, compared with those who do not meet the highest requirement. Because of this, special education units encourage their personnel to obtain additional training to meet the highest requirement.

E. Procedures for Notifying Public Agencies and Personnel of Steps and Timelines for Retraining or Hiring Personnel to Meet Appropriate Professional Requirements

During the 1992-93 school year, the Department of Public Instruction will notify school districts, special education units, institutions of higher education, and persons operating under letters of temporary approval or presently approved as tutors in training, and other persons and agencies/organizations that have a vested interest in personnel standards of the steps and timelines for retraining and hiring personnel to meet highest state requirements for all personnel serving children with disabilities. Contacts will be made through formal written notice, transmission of the FY 1993-95 State Plan, presentations at meetings, conferences, and workshops, and other appropriate means.

F. Current information used in determining the status of personnel standards in North Dakota for each profession or discipline in which personnel are providing special education or related standards is on file at the Department of Public Instruction and is available to the public.

G. In identifying the highest requirements in North Dakota, the requirements of all North Dakota statutes and the rules of all state agencies applicable to serving children and youth with disabilities have been considered.

H. Goal for Meeting Highest Requirements

The Department of Public Instruction has set the year of 2010 as the time by which all personnel serving children with disabilities will meet the state's highest professional requirements.

X. NEW STATE PLAN REQUIREMENTS, AS DETAILED IN OSEP 92-3

A. Adding Children, Aged 3-5, with Developmental Delays to the Definition of "Children with Disabilities"

North Dakota will continue to use its current definition of children with disabilities. See Appendix A for definition.

B. State Administrative Set-Aside for Small States

The change in the Act increasing from $350,000 to $450,000 the amount North Dakota may reserve from its Part B allocation for administrative expenses is already reflected in section XV (Description of Use of Part B Funds).

C. Part B Services for Indian Children

The Department of Public Instruction will work with the Bureau of Indian Affairs to delineate the responsibilities of the State of North Dakota in serving Indian children, aged 3-21, in BIA schools on reservations.

D. Comprehensive System of Personnel Development (CSPD)

The North Dakota CSPD plan addresses training needs of personnel who serve children and youth with disabilities under both Parts B and H. The statewide needs assessment conducted during November/December 1991 included personnel working in Infant Development programs as well as parents of children served in that program. Section X includes a table summarizing inservice priorities. For many of the priorities, the table identifies target audiences who are concerned with delivery of quality services to children served under P.L. 102-119.

E. Transition from Part H to Preschool Programs

The transition of a child who turns age three from Part H to Part B is summarized in Table 4. This table describes the activities, timelines, responsibilities, and functions of the recommendation transition process between Infant Development programs and special education unit programs. The IPP/IEP transition planning and development meeting is to take place three months prior to the child's third birthday.

F. LEA Applications - Permitting IFSPs for Children 3-5

The Department of Public Instruction permits LEAs to use IFSPs in lieu of IEPs for children with disabilities, aged 3-5.

G. Amendments to the Preschool Grants Program

The Department of Public Instruction does not use 619 funds to provide FAPE to two year old children with disabilities who will reach age three during the school year.

H. Amendment to Part H - Use of Part H Funds to Provide FAPE

Transition of financial responsibility occurs at age three, and does not overlap between the Department of Public Instruction and the Department of Human Services.

Table 4. Summary of Transition Process
From Infant Development
Special Education Unit Programs

	ACTIVITY	TIMELINE	JOINT RESPONSIBILITY	FUNCTION	INVITATION TO ATTEND
1.	Meeting between Infant Development Program and Developmental Disabilities Program Administrators and Case Management	ID/DD meetings prior to fall administrators meeting	*ID Program Coordinator DD Program Administrator/ Case Management	Review caseload of infants enrolled in ID Program • identify children transferring to public schools within the following year • review children currently in the transition process • review all children in ID services	ID Program Coordinator ID Staff DD Program Administrator or Designee DD Case Managers
2.	Parents Informed	One year prior to transition (child's second birthday)	*ID Program Coordinator DD Case Management	Parent sign Release of Information so ID Program can begin sharing information with receiving Special Education Unit	ID Staff Parents/Guardian
3.	Administrative Meeting/Contact between ID Coordinator/Special Education Administrator/ DD Program Administrator/ DD Case Management	In the fall, prior to P.L. 100-297 (Dec. 1) Child Count	*ID Program Coordinator Special Education Admin. DD Program Admin.	Review record/status of transfer children Coordinate/confirm activities timelines and agency responsibilities for each transition child Share summary data on other children enrolled in Infant Development Confirm which children are P.L. 100-297 program eligible Review children receiving DD case management services only.	ID Program Coordinator Special Education Admin. DD Program Administrator/ Case Management Regular Education
4.	Receiving School District Notified in Writing of Child(ren) to be Transitioning within the Upcoming Year	Within 1 month following child's second birthday	*ID Program Coordinator DD Case Management	The following information sent: written Release of Information; evaluation; diagnostic and program information.	
5.	Joint Multi-Agency Assessment Planning Meeting	By the time the child is 2 years 6 months of age	*ID Program Coordinator Special Education Unit DD Case Management	Give Part B/H Rights Address DD case management redetermination of eligibility at age 3 Discuss eligibility under Part B (Special Ed; 619; IDEA) and 504 Discussion of continuum of services Arrange appropriate visitation of child and parent to service options Discuss and plan for additional evaluation or information, if needed Sign evaluation consent - spec. ed. responsible to obtain Discuss and schedule IEP/IPP team meeting	Parents/Guardian ID Staff DD Case Manager Special Education Staff Regular Education
6.	Joint Multi-Agency Assessment	Prior to IEP/IPP Meeting	*ID Program Coordinator Special Education Unit DD Case Manager	Conduct assessment DD case management to refer to Human Services Eligibility Determination Team	ID Staff Special Education Staff Parents/Guardian
7.	IEP/IPP Team Meeting	Prior to child turning 2 years 9 months of age	*ID Program Coordinator Special Education Unit DD Case Management Regular Education	Determine eligibility under Part B IDEA procedural safeguards Write IEP/IPP (or review of current IPP) to include documentation of transition Determine placement Sign consent for placement in Special Education Services	Parents/Guardian Child ID Program Coord./Staff DD Case Manager Special Education Staff Regular Education
8.	Transfer to Special Education Unit (Local Education Agency - LEA)	Child's third birthday	*ID Program Coordinator Special Education Unit DD Case Management	Child participates in Special Education program	Child/Parent
9.	Follow-up as Designated in Transition Plan	Initial follow-up within 3 months of ID discontinued service	*ID Program Coordinator DD Case Management	Options: • Telephone contact to parent • Observation • Visitation to preschool program • Telephone contact to preschool program teacher/coordinator	ID Program Staff Special Education Staff DD Case Manager Parents/Guardian Child

*Realizing that Infant Development is the "Primary" Provider, they will have the primary responsibility to be the initiator of all process steps. However, all agencies have a joint responsibility.

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APPENDICES

A. DEFINITIONS OF DISABILITIES AND OTHER RELATED TERMS

B. NORTH DAKOTA SPECIAL EDUCATION LAWS

C. GUIDELINES FOR THE STATE RECOMMENDED INDIVIDUAL EDUCATION PLAN (IEP)

D. MONITORING PROCEDURES

E. GUIDELINES FOR THE STATE RECOMMENDED PARENT RIGHTS, PRIOR NOTICE, AND PARENT CONSENT PROCEDURES, INCLUDING PARENTAL RIGHTS IN SPECIAL EDUCATION BROCHURE

F. PROCEDURAL SAFEGUARDS - GUIDE I

G. INTERAGENCY AGREEMENTS

H. CSPD ADVISORY SUBCOMMITTEE

I. CREDENTIAL REQUIREMENTS

Note: Many of the appendices are printed materials that are available locally through school administrators. You may contact local administrators or the Director of Special Education, ND Department of Public Instruction, 600 East Boulevard Avenue, 10th Floor, Bismarck, ND 58505-0440, (701) 224-2277.